

## **PROPOSED RULE ON THE REVIEW OF RURAL DETERMINATIONS**

### **Action Item for Federal Subsistence Regional Advisory Councils Fall 2006**

- This is an action item for all of the Federal Subsistence Regional Advisory Councils. The Federal Subsistence Board is seeking Council recommendations and public comments through October 27, 2006 on a proposed rule that would change the rural or nonrural status of several Alaska communities and areas.
- The proposed rule is being provided to the Councils for their reference. No changes in rural/nonrural status of communities or areas are being proposed in the Bristol Bay, Yukon-Kuskokwim Delta, Western Interior Alaska, Seward Peninsula, Northwest Arctic, or Eastern Interior Alaska Council regions.
- The Board will hold public hearings in Kodiak September 20-21, in Saxman September 25, in Ketchikan September 26, and in Sitka October 10. The Board will make a decision on a final rule at a public meeting in Anchorage December 12-13. Public testimony will be taken at that meeting, and all Council Chairs are invited.
- ANILCA requires that rural Alaskans be given priority for subsistence uses of fish and wildlife on Federal public lands. Only residents of rural communities and areas are eligible for this subsistence priority.
- The Board initially determined which Alaska communities were rural when the Federal Subsistence Management Program began in 1990.
- Federal subsistence regulations require that rural/nonrural status be reviewed every 10 years, beginning with the availability of the 2000 census data. An initial staff review, completed in July 2005, recommended that the rural/nonrural status of most Alaska communities should remain unchanged for the proposed rule. Comment periods were provided at earlier stages in the review process.
- The regulations require that communities or areas that are economically, socially, and communally integrated be grouped for evaluation purposes. That was the first step in the analysis, followed by evaluation of rural/nonrural status.
- For considering whether communities or areas should be grouped, the Board directed staff to report on the following three indicators: 1) proximity/road connectedness; 2) shared high school attendance area; and 3) commuting of 30% or more of the workers between places of interest.
- The regulations establish guidelines for rural and nonrural status relative to population size:
  - A community with a population below 2,500 is considered rural, unless it possesses significant characteristics of a nonrural nature or is considered to be socially and economically part of a nonrural area.
  - A community with a population of more than 7,000 is considered nonrural unless it possesses significant characteristics of a rural nature.

- A community with a population above 2,500, but not more than 7,000, is to be evaluated to determine rural/nonrural status.
- For evaluating rural/nonrural status of communities or groupings, the method was to:
  - First, categorize the community or grouping by population size relative to the population thresholds.
  - Then, evaluate community characteristics as warranted. These may include, but are not limited to:
    - Diversity and development of the local economy
    - Use of fish and wildlife
    - Community infrastructure
    - Transportation
    - Educational institutions.
- Turning now to changes being proposed by the Board, **Prudhoe Bay** is proposed for change from rural to nonrural status in the North Slope Region. The Board has come to the preliminary conclusion that Prudhoe Bay is an industrial enclave built for the sole purpose of extracting oil, with no permanent residents and none of the characteristics typical of a rural community.
- In the Southcentral Alaska Region, it is proposed that communities or areas be added to the nonrural Wasilla-Palmer, Homer, and Kenai Areas, and thereby change in status from rural to nonrural, as follows:
  - **Point MacKenzie** grouped with the nonrural Wasilla-Palmer Area. Available information indicates that Point MacKenzie is economically, socially and communally integrated with the Wasilla-Palmer Area. Point MacKenzie is in proximity and road accessible to the Wasilla-Palmer Area, its students attend Wasilla High School, and 50 percent of Point MacKenzie workers commute to the Wasilla-Palmer Area for employment.
  - **Fritz Creek East** (not including Voznesenka) and the **North Fork Road area** grouped with the nonrural Homer Area. Available information indicates that these areas are economically, socially and communally integrated with the Homer Area. They are in proximity and road-connected with Homer, more than 40 percent of workers from these areas commute to the Homer Area, and most students from these areas attend Homer High School.
  - **Sterling** would be fully included in the nonrural Kenai Area. Sterling has been part of the nonrural Kenai Area since 1990. For the 2000 census, the Sterling area was expanded, such that a significant portion now extends beyond the current boundary of the Kenai Area. The Board believes that the boundaries of the Kenai Area should be adjusted to include all of Sterling. Students in Sterling go to high school in the Kenai Area, and the level of commuting is at 61.2%, well above the minimum criteria for grouping.
- In the Kodiak/Aleutians Region, changes are proposed for Adak and Kodiak, as follows:
  - Status of the community of **Adak** would change from nonrural to rural. Adak has undergone substantial change that warrants a change in status. Specifically, the population of Adak decreased by 94% from 1990 to 2000, bringing it well below the presumptive rural population threshold of 2,500. It is an extremely remote island community accessible only by boat or plane.

- The **Kodiak Area**, including the City of Kodiak, the Mill Bay area, the Coast Guard Station, Women's Bay and Bells Flats, would be grouped and change in status from rural to nonrural. The population of this area is approximately 12,000, well above the nonrural population threshold, and community characteristics indicate nonrural status. (Places excluded from this nonrural grouping are Chiniak, Pasagshak, Anton Larsen, Kalsin Bay and Middle Bay, as well as villages and communities on the Kodiak Archipelago not connected by road to the Kodiak area. These places would remain rural in status.)
- In the Southeast Alaska Region, changes are proposed in the nonrural **Ketchikan Area**, which would be expanded to include areas on the road system to the north and south of the current nonrural boundary. However, Saxman would remain separate and rural. Even though the grouping criteria would indicate including Saxman with the Ketchikan Area, there are social and economic characteristics that indicate that Saxman should not be grouped in the Ketchikan Area, as described further in the proposed rule. The population of the Ketchikan Area, excluding Saxman, is 12,720, well above the nonrural population threshold, and community characteristics indicate nonrural status.
- The analysis used by the Board in developing the proposed rule can be found on the Office of Subsistence Management website, or can be obtained from OSM staff.
- Once again, this is an action item for all of the Federal Subsistence Regional Advisory Councils. Including the rationale for your recommendation would be most helpful to the Board. The Board will make a decision on a final rule at a public meeting in Anchorage December 12-13, 2006.

corrected to read “*G. Request for Comments*”.

**Guy Traynor,**

*Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel (Procedure and Administration).*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–135866–02]

RIN 1545–BA93

#### Section 1248 Attribution Principles; Correction

**AGENCY:** Internal Revenue Service (IRS),  
Treasury.

**ACTION:** Notice of proposed rulemaking;  
correction.

**SUMMARY:** This document corrects a notice of proposed rulemaking (REG–135866–02) that was published in the **Federal Register** on Friday, June 2, 2006 (71 FR 31985) providing guidance for determining the earnings and profits attributable to stock of controlled foreign corporations (or former controlled foreign corporations) that are (were) involved in certain nonrecognition transactions.

**FOR FURTHER INFORMATION CONTACT:** Michael Gilman, (202) 622–3850 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice of proposed rulemaking (REG–135866–02) that is the subject of this correction is under section 1248 of the Internal Revenue Code.

##### Need for Correction

As published, REG–135866–02 contains errors that may prove to be misleading and are in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–135866–02) that was the subject of FR Doc. E6–8551 is corrected as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** On page 31991, instructional Par. 4. is amended by adding a new entry at the end of the amendatory instruction to read as follows:

Adding new paragraph (g).

#### § 1.1248–1 [Corrected]

**Par. 3.** On page 31991, § 1.1248–1 is amended by adding a new paragraph (g) to read as follows:

#### § 1.1248–1 Treatment of gain from certain sales or exchanges of stock in certain foreign corporations.

\* \* \* \* \*

(g) *Effective date.* Paragraph (a)(4) and paragraph (a)(5), *Example 4*, of this section apply to income inclusions that occur on or after the date that paragraph and example are published as final regulations in the **Federal Register**.

**Guy Traynor,**

*Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel (Procedure and Administration).*

[FR Doc. E6–13119 Filed 8–11–06; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

RIN 1018–AT99

#### Subsistence Management Regulations for Public Lands in Alaska, Subpart C; Nonrural Determinations

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would revise the list of nonrural areas identified by the Federal Subsistence Board (Board, we, us). Areas determined to be nonrural are not eligible to participate in the Federal Subsistence Management Program on Federal public lands in Alaska. We propose to change Adak’s status to rural. We also propose to add Prudhoe Bay and the Kodiak Area, including the City of Kodiak, the Mill Bay area, Womens Bay, Bell’s Flats, and the Coast Guard Station to the list of nonrural areas. The following areas would continue to be nonrural, but we propose changes in their boundaries: the Kenai Area; the Wasilla/Palmer Area, including Point

McKenzie; the Homer Area, including Fritz Creek East (except Voznesenka) and the North Fork Road area; and the Ketchikan Area. We propose no other changes in status. However, new information could lead to changes not proposed at this time.

**DATES:** We must receive your written public comments no later than October 27, 2006.

**ADDRESSES:** You may submit comments electronically to [Subsistence@fws.gov](mailto:Subsistence@fws.gov). See **SUPPLEMENTARY INFORMATION** for file format and other information about electronic filing. You may also submit written comments to the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503.

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Pete Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 786–3888.

#### SUPPLEMENTARY INFORMATION:

##### Comments

Electronic filing of comments is preferred: You may submit electronic comments and other data to [Subsistence@fws.gov](mailto:Subsistence@fws.gov). Please submit as MS Word or Adobe Acrobat (PDF) files, avoiding the use of any special characters and any form of encryption.

##### Background

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that “the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses \* \* \*” and that “continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened \* \* \*.” As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a program to provide rural Alaska residents a priority for the taking of fish and wildlife on public lands in Alaska for subsistence uses, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, priority, and participation specified in sections 803, 804, and 805 of ANILCA.

The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural priority in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* caused the State to delete the rural priority from the subsistence statute which therefore negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Departments published the Temporary Subsistence Management Regulations for Public Lands in Alaska in the **Federal Register** (55 FR 27114). Permanent regulations were jointly published on May 29, 1992 (57 FR 22940), and have been amended since then.

As a result of this joint process between Interior and Agriculture, these regulations can be found in the titles for Agriculture and Interior in the Code of Federal Regulations (CFR) both in title 36, "Parks, Forests, and Public Property," and title 50, "Wildlife and Fisheries," at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain the following subparts: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), and December 27, 2005 (70 FR 76400), the Departments established a Federal Subsistence Board (Board) to administer the Federal Subsistence Management Program, as established by the Secretaries. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management (BLM); the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

#### Rural Determination Process

With a **Federal Register** notice on October 5, 1990 (55 FR 40897), the newly established Federal Subsistence Board initiated the preparation of an Environmental Impact Statement as a vehicle for widespread public review and participation in the development of the final temporary regulations. The rural determination process was included, and subsequently on November 23, 1990 (55 FR 48877), the Board published another notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. Public meetings were held in approximately 56 Alaskan communities, specifically to solicit comments on the proposed Federal Subsistence Management Program. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940).

Federal subsistence regulations require that the rural/nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. The Board evaluated several options for conducting the review and decided to adopt an approach similar to that taken in 1990, which used criteria established in Federal subsistence regulations. The review was conducted with an emphasis on what has changed since 1990.

Although the process uses data from the 2000 census for its review, some data were not compiled and available until 2005. Data from the Alaska Department of Labor were used to supplement the census data.

During February–July 2005, the staff of the Federal Subsistence Management Program conducted an initial review of the rural status of Alaska communities, looking at the 2000 census data for each community or area with an emphasis on what had changed since 1990. From this initial review, staff compiled a report that included a proposed list of communities and areas for which further analysis appeared warranted. In addition, the report included the method used to develop this list. In August–October 2005, the public and Federal Subsistence Regional Advisory Councils were invited to comment on the results of this initial review.

At a meeting in Anchorage on December 6–7, 2005, the Board took public testimony and determined that

additional information was needed on 10 communities and areas before it decided upon any potential changes.

- For three communities, analysis was focused on evaluation of rural/nonrural status, as follows:

*Kodiak, Adak, and Prudhoe Bay:* Currently Kodiak and Prudhoe Bay are considered rural, and Adak is considered nonrural. These three communities were further analyzed as to their rural/nonrural status.

- For five nonrural groupings of communities and areas, further analysis evaluated the possibility of excluding or including places, as follows:

*Fairbanks North Star Borough:* Evaluate whether to continue using the entire borough as the nonrural area, or separate some outlying areas and evaluate their rural/nonrural status independently.

*Seward Area:* Evaluate whether to exclude Moose Pass and similarly situated places from this nonrural grouping and evaluate their rural/nonrural status independently.

*Wasilla/Palmer Area:* Evaluate whether to include Willow, Point MacKenzie, and similarly situated places in this nonrural grouping.

*Homer Area:* Evaluate whether to include Fox River, Happy Valley, and similarly situated places in this nonrural grouping.

*Kenai Area:* Evaluate whether to exclude Clam Gulch and similarly situated places from this nonrural grouping and evaluate their rural/nonrural status independently.

- In addition, two areas were recommended for further analysis as follows:

*Ketchikan Area:* Evaluate whether to include Saxman, and areas of growth and development outside the current nonrural boundary, and evaluate the rural/nonrural status of the whole area.

*Delta Junction, Big Delta, Deltana and Fort Greely:* Evaluate whether some or all of these communities should be grouped, and their rural/nonrural status evaluated collectively.

This list for additional analysis differed from the proposed list put out for public comment in July 2005, in that: (1) The scope of the review was broadened for the Ketchikan area, currently considered nonrural, to include an analysis of rural/nonrural characteristics of the entire area; (2) the rural/nonrural status of Prudhoe Bay was added; and (3) additional analysis of Sitka was not believed to be necessary.

Sitka, whose population had increased from 8,588 people in 1990 to 8,835 in 2000, had been identified as an area possibly warranting further



analysis. However, during its December 6–7, 2005, meeting, the Board heard substantial public testimony regarding the rural characteristics of Sitka and determined that no additional analysis was necessary. The Board is proposing to leave Sitka's rural status unchanged.

During January–May 2006, Federal subsistence staff conducted in-depth analyses of each community or area on the Board-approved list of communities and areas identified for further analysis.

On June 22, 2006, the Board met in executive session to develop the list of communities and areas they believe to be nonrural. Those communities and areas are identified in this proposed rule.

Population size is a fundamental distinguishing characteristic between rural and nonrural communities. Under the current programmatic guidance in Federal subsistence regulations:

- A community with a population of 2,500 or less is deemed rural, unless it possesses significant characteristics of a nonrural nature, or is considered to be socially and economically a part of a nonrural area.
- A community with a population of more than 7,000 is deemed nonrural, unless it possesses significant characteristics of a rural nature.
- A community with a population above 2,500 but not more than 7,000 is evaluated to determine its rural/nonrural status. The community characteristics considered in this evaluation may include, but are not limited to, diversity and development of the local economy, use of fish and wildlife, community infrastructure, transportation, and educational institutions.

Communities that are economically, socially, and communally integrated are combined for evaluation purposes. The Board identified three guidelines or criteria for analysis to assist in its determination of whether or not to group communities in its review of rural determinations. The criteria to be used include: (1) Are the communities in proximity and road-accessible to one another? The first criterion, proximity and road accessibility, is considered a logical first step in evaluating the relationship between communities, and, applied in relation to the other two criteria, is considered a reasonable indicator of economic, social, and communal integration. (2) Do they share a common high school attendance area? The second criterion, regarding sharing a common high school attendance area, is taken to be an indicator of the social integration of communities. This is an improvement by way of modification from the former criterion of a shared

school district. The public pointed out in past testimony that attendance in a common school district often reflects political or administrative boundaries rather than social integration. A shared social experience is better captured by the shared high school criterion. (3) Do 30% or more of the working people commute from one community to another? This criterion, regarding whether working people commute from one community to another, was identified as providing meaningful information relating to the grouping of communities. Also, the U.S. Census uses this criterion because commuting to work is an easily understood measure that reflects social and economic integration. These criteria were not considered separately, but assessed collectively, with the recommendation to group communities being dependent upon the collective assessment.

Community characteristics and specific indicators that the Board used to evaluate rural/nonrural status include: (1) Economy—wage employment, percent unemployment, per capita income, diversity of services, cost-of-food index, and number of stores defined as large national retailers; (2) community infrastructure—including the cost of electricity; (3) fish and wildlife use—variety of species used per household, percentage of households participating, level of average harvest per capita for all subsistence resources combined, and level of average harvest per capita for salmon and large land mammals only; (4) transportation—variety of means, predominant means, and length of road system; and (5) educational institutions present in the community.

The Board's analysis and preliminary efforts to distinguish between rural places and nonrural places were heavily reliant on population size, but when the Board used other characteristics, its approach was based on a totality of the circumstances. Unemployment is generally higher and per capita income is generally lower in rural places than in nonrural places. Cost of food and cost of electricity were generally higher in the rural communities than in the nonrural. Subsistence per capita harvest of all resources shows a pattern of increasing amount with decreasing population size among nonrural areas, and typically higher levels in rural communities. The per capita harvest of salmon and large land mammals also shows a general pattern of increasing amount with decreasing population size among nonrural areas, and typically higher levels in rural communities. There were no large national retailers found in the rural communities

examined (other than Kodiak which is being proposed as nonrural), or in the three smallest nonrural communities or areas. Population density was generally higher for most nonrural places than it was for rural places.

Summarized below are the Board's recommendation for each area analyzed and the justification for that recommendation.

*Adak:* Recommend changing Adak's status from nonrural to rural. Following the closure of the military base, the community of Adak has decreased in population by 94 percent from 1990 to 2000. It currently has 167 residents (2005), which is well below the presumptive rural threshold of 2,500 persons. Adak is also extremely remote and is accessible only by boat or plane, with the nearest community (Atka) 169 miles away. With the changes that have occurred since the 1990s, Adak now has rural characteristics typical of a small isolated community.

*Prudhoe Bay (including Deadhorse):* Recommend changing Prudhoe Bay's status from rural to nonrural. In 2000 Prudhoe Bay had one permanent household comprised of five people. There were reportedly no permanent residents in February 2006. Prudhoe Bay has none of the characteristics typical of a rural community. Prudhoe Bay is an industrial enclave built for the sole purpose of extracting oil. The oil companies provide everything employees need: Lodging, food, health care, and recreation. The thousands of people in Prudhoe Bay do not live there permanently, but work multi week-long shifts. They eat in cafeterias and live in group quarters. There are no schools, grocery stores, or churches. Subsistence is not a part of the way of life. Hunting in the area and possession of firearms and ammunition are prohibited. Based on its industrial enclave characteristics, Prudhoe Bay should be determined to be nonrural.

*Fairbanks North Star Borough:* No changes to this nonrural grouping are recommended. In applying the grouping criteria as indicators of economic, social, and communal integration, the Board believes that the current nonrural boundary of the Fairbanks Area should continue to be defined as the Fairbanks North Star Borough boundary. No census designated places (CDPs) should be excluded from the nonrural grouping for the following reasons: (1) All CDPs are road accessible to one another. Although the Harding-Birch Lakes and Salcha areas are more sparsely populated than central areas of the borough, both communities include many occasional-use homes owned by Fairbanks residents. Further, both

places are home to only a few year-round residents. (2) The majority of the Borough's high school students are bused to one of the schools located in Fairbanks, North Pole, or Eielson. (3) The Remainder area of the North Star Borough should be included in the grouping because the majority of the population is road connected and over half (57 percent) of the workers residing in this area commute to Fairbanks for employment. Additionally, 75 percent of the workers living in Harding-Birch Lakes drive to the City of Fairbanks to work, and 71 percent of the working population in Pleasant Valley commute to the City of Fairbanks.

**Delta Junction Vicinity:** No changes are recommended for the rural status of Delta Junction, or the communities in the immediate vicinity. In applying the grouping criteria as indicators of economic, social, and communal integration, the Board believes that the four Delta Junction vicinity CDPs assigned for analysis (Delta Junction, Big Delta, Deltana, and Fort Greely) should be grouped as an area for purposes of rural/nonrural analysis because they fulfill the three guidelines for grouping: (1) All four CDPs are road connected and proximal; (2) the majority of the high school-aged students from Big Delta, Deltana, and Fort Greely attend high school in Delta Junction; and (3) in the two outlying CDPs, over 30 percent of the workers commute within the vicinity (41 percent of the workers living in Big Delta commute to either Delta Junction, Deltana, Fort Greely, or to a Remainder area within the Southeast Fairbanks Census Area, and 45 percent of the workers in Deltana commute to Delta Junction or Fort Greely).

The four places grouped into the Delta Junction Area should remain rural in status. The population size of the grouping (3,921) places it in the nonpresumptive midrange, and information on the characteristics of the grouping, although somewhat limited, is indicative of a rural character. The recent economic upswing to the area due to construction of the Missile Defense system at Fort Greely and development of the Pogo Mine is thought to be temporary.

**Seward Area:** No changes to this nonrural grouping are recommended. In applying the grouping criteria as indicators of economic, social, and communal integration, the Board believes that the Moose Pass, Crown Point, and Primrose CDPs should remain within the Seward Area grouping. Moose Pass, Crown Point, and Primrose CDPs meet all the criteria for grouping: proximity and road-

accessibility to the Seward Area; their students attend the high school in Seward; and the level of workers commuting to Seward for employment is greater than 30 percent.

**Wasilla/Palmer Area:** Include the Point MacKenzie CDP in the nonrural Wasilla/Palmer Area grouping; do not include the Willow CDP. The Board believes that the Point MacKenzie CDP meets all the criteria for grouping with the Wasilla/Palmer Area. The Point MacKenzie CDP is in proximity to the Wasilla/Palmer Area and road-accessible; their students attend Wasilla High School; and the level of workers commuting to the Wasilla/Palmer Area for employment is at 50 percent. This change would make Point McKenzie part of a nonrural area, a change from its current rural status. The Board recommends that the Willow CDP not be included in the Wasilla/Palmer Area grouping. Students in the Willow CDP are located in two attendance areas for high schools, within and outside of the Wasilla/Palmer Area. The level of commuting for workers to the Wasilla/Palmer Area is at 23.9 percent, which is below the criteria identified for grouping.

**Kenai Area:** Adjust the boundaries of the nonrural Kenai Area to include all of the current Sterling CDP, and propose no change to the current grouping and status of Clam Gulch CDP as part of the nonrural Kenai Area. It appears that Clam Gulch CDP should continue to be included in the Kenai Area grouping because, although students of Clam Gulch CDP attend high school outside of the Kenai Area, the commuting of workers to the Kenai Area is on the order of 30 percent, and Clam Gulch is connected by paved highway to the Kenai Area, with which it has been grouped since initial determinations were made in 1990. It also appears that Coho CDP should remain within the Kenai Area grouping. Coho students attend a high school in the Kenai Area and the level of work commuting, at 69.5 percent, is significantly above the minimum criteria for grouping. The Sterling CDP has been part of the nonrural Kenai Area since 1990. For the 2000 census, the Sterling CDP has expanded in size, such that a significant portion of the CDP extends beyond the current boundary of the nonrural Kenai Area. The Board believes that the boundaries of the Kenai Area should be adjusted to include all of the current Sterling CDP. Students within the Sterling CDP go to high school within the Kenai Area and the level of commuting is at 61.2 percent of workers, well above the minimum criteria for grouping.

**Homer Area:** Adjust the boundaries of the nonrural Homer Area to include all of the Fritz Creek CDP (not including Voznesenka), and the North Fork Road portion of the Anchor Point CDP. This change would make Fritz Creek East, except for Voznesenka, and the North Fork Road portion of the Anchor Point CDP nonrural, a change from their current rural status. The Board has tentatively concluded for Fritz Creek East that, except for Voznesenka, the residents are economically, socially, and communally integrated with the Homer Area. Fritz Creek East is in proximity and road-connected to the Homer Area. The Homer High School attendance area includes their students, and 43.8 percent of their workers commute to the Homer Area. It appears that Voznesenka should not be included in the Homer Area because, while it is in proximity and road-connected to the Homer Area, the number of jobs shown as being located within the Homer Area is only 19.5 percent, and Voznesenka students attend high school in Voznesenka.

The Board believes that residents of the North Fork Road area fully meet two of the three criteria, proximity and commuting of workers. For the third criteria, although students have the option of attendance in Nikolaevsk School or Ninilchik High School, the vast majority go to Homer High School. This is sufficient basis for considering the North Fork Road area of the Anchor Point CDP to be economically, socially, and communally integrated with the nonrural Homer Area.

The Board believes that residents of the Happy Valley CDP fulfill only the proximity criterion for grouping with the Homer Area. Happy Valley students are within the Ninilchik School high school attendance area, and less than 30 percent of Happy Valley workers commute to the Homer Area (14.4 percent). It appears that residents of the Happy Valley CDP should not be included with the Homer Area.

It appears that the Nikolaevsk CDP, north of the Anchor Point CDP and connected to the Homer Area by the North Fork Road, does not warrant inclusion in the Homer Area. There is a K-12 school in Nikolaevsk, and data show that only 22 percent of jobs held by Nikolaevsk residents were located in the Homer Area.

It appears that residents of Fox River CDP, primarily in the communities of Razdolna and Kachemak Selo, do not meet any of the three criteria, which would indicate that Fox River residents are not economically, socially, or communally integrated with the Homer Area.

**Kodiak Area:** Define the Kodiak Area to include the road system, including the City of Kodiak, the Mill Bay area, Womens Bay, Bell's Flats, and the Coast Guard Station, but not including Chiniak, Pasagshak, and Anton Larsen, and change the status of the Kodiak Area, as defined, from rural to nonrural. The Board believes that the Kodiak Station CDP should be included in the Kodiak Area grouping. The Kodiak Station CDP directly fulfills two of the three criteria for being grouped in the Kodiak Area, and special consideration is warranted in relation to the third criterion: (1) The Kodiak Station CDP is road-connected and adjacent to the City of Kodiak; (2) the Kodiak Station CDP does not have a high school; all students attend high school in the City of Kodiak; and (3) the special circumstance of enlisted employment accounts for the overall commuting level of workers to Kodiak City being an estimated 11 percent of all working residents. However, this can be attributed to the fact that enlisted personnel residing on the base are by duty assignment bound to the base. Working dependents, who are not bound to employment on the base, virtually all work in Kodiak City. While the worker commuting criterion is thereby not met if one pools enlisted personnel and working dependents, ties to the Kodiak Area are otherwise evident. The Board believes that the Womens Bay CDP should be included in the Kodiak Area grouping. Womens Bay CDP fulfills all three criteria for being grouped in the Kodiak Area: (1) Womens Bay CDP is road-connected and proximal to the City of Kodiak; (2) Womens Bay CDP does not have a high school; students attend high school in the City of Kodiak; and (3) more than 30 percent of the working residents are employed in the City of Kodiak.

The Board believes that the Chiniak CDP should not be included in the Kodiak Area grouping because (1) although there is a road from Chiniak to the City of Kodiak, it is a minimum of a one-hour trip, and the 14 miles closest to Chiniak are unpaved; (2) there is a partial high school in Chiniak to grade 10, and only two-fifths of the high school-aged children attend school in Kodiak.

The Board believes that the road-connected Remainder area should be included in the Kodiak Area grouping, with the exception of the Pasagshak and Anton Larsen portions. The road-connected Remainder area, with the exceptions as noted, is proximal to the City of Kodiak; students from the road-connected Remainder area attend high school in the City of Kodiak; and more than 30 percent of the working residents

of the Remainder area are employed in the City of Kodiak. The road-connected Remainder area of the Kodiak Area includes people residing in Anton Larsen and Pasagshak. There is no information about these "sub-areas" of the road-connected Remainder area, thus it is unknown if students living in these areas are taught through correspondence, home-schooled, or travel to Kodiak to attend high school. It is also unknown how many people commute to Kodiak City to work. However, the Board determined that despite the lack of information regarding the three criteria for grouping, the remoteness of Pasagshak and Anton Larsen is comparable to the remoteness of Chiniak, and therefore elected to propose no change in the rural status of these areas.

The population of the Kodiak Area—estimated at approximately 12,000 in 2005—is well above the presumptive nonrural population of 7,000 in Federal regulations. The population has increased slightly since 1990. Kodiak's per capita income is relatively high and it also has a 2-year college, high diversity of services, a large national retailer, fast food restaurants, and roads linking the outlying area to the city. Of the communities examined during this analysis, the Kodiak Area is 34 percent larger in population than the next largest rural place, and its use of fish and wildlife is 24 percent lower. While the per capita harvest of subsistence resources is higher in the Kodiak Area than in some rural areas, it is well below the levels in some other rural communities.

**Ketchikan Area:** Define the Ketchikan Area to include Pennock Island, parts of Gravina Island, and the road system connected to the City of Ketchikan, except for the community of Saxman. Saxman would retain its current rural status, and the Ketchikan Area, as defined, would retain its nonrural status. Saxman is directly adjacent to Ketchikan, connected by road, and surrounded by the outlying Ketchikan development. Visually, the only distinguishing feature to indicate the boundary between Ketchikan and Saxman is a sign on the South Tongass Highway. Saxman has clearly been overtaken and is surrounded by the geographic expansion of Ketchikan; Saxman students attend high school in Ketchikan; and 64 percent of the workers in Saxman commute to Ketchikan for their employment, with another 8 percent commuting to the Remainder area of the borough to work. Even though the grouping criteria would indicate including Saxman with the Ketchikan Area, social and economic

characteristics indicate that Saxman should not be grouped in the Ketchikan Area. Saxman is a small, close-knit community that is socially and politically separate from Ketchikan. The residents of Saxman have two distinct entities to separate themselves from Ketchikan, the traditional government (Organized Village of Saxman) and the municipal government (City of Saxman). Socioeconomic indicators suggest distinctions between the two communities. For example, Saxman has a higher unemployment rate, lower per capita income, higher percentage of residents below the poverty level than those found in Ketchikan, and a 70 percent Native population. Another distinguishing characteristic of the community is that Saxman residents depend much more heavily on the harvest of subsistence resources. Saxman's average per capita harvest of 217 pounds is substantially more than has been estimated for the Ketchikan Area. Thus, while the grouping criteria lead to including Saxman with the Ketchikan Area, the unique socioeconomic characteristics of Saxman suggest that it should remain separate from the Ketchikan Area.

The Remainder fulfills all three criteria for grouping with the Ketchikan Area: (1) The Remainder, other than nearby Gravina and Pennock Islands, is road-connected to the City of Ketchikan; (2) Students in the Remainder attend high school in Ketchikan; and (3) Over 30 percent of the workers from the Remainder commute to work in the City of Ketchikan. Presently, most of the Remainder is included in the nonrural Ketchikan Area, established in 1990, except for extensions of the highway to the north and south that have since occurred.

The population of the Ketchikan Area was estimated at 12,720 in 2005 (excluding Saxman), having decreased slightly from 1990. Ketchikan possesses many nonrural characteristics, including having a 2-year college, a large national retailer, car dealerships, fast food restaurants, and roads linking the outlying surrounding area to the city. Although the pulp mill closed, there is still some diversity in the economy with tourism, fishing, fish processing, timber, retail services, and government providing the majority of employment. There is a hospital and a high diversity of services offered. The Ketchikan Area had the sixth highest population in the state in 2005, considering community groupings as defined by the Board. All other areas with higher populations are currently considered nonrural in Federal subsistence regulations. Three areas



with smaller populations are currently classified as nonrural and are not proposed for a change in status: the Homer Area, Seward Area, and Valdez. Harvest of subsistence resources in the Ketchikan Area is lower than is characteristic of rural communities.

This change would make the extended road connected areas of Ketchikan nonrural, a change from their current rural status.

The list of nonrural communities and areas, along with those other nonrural communities or areas whose status would remain unchanged, is published herein as the proposed rule. All other communities and areas of Alaska not listed herein would retain their rural determination. We propose to amend Section \_\_\_\_\_.23, which identifies those communities and areas of Alaska that are determined to be rural and nonrural. We have made maps available for the nonrural areas. The purpose of these maps is to provide to the subsistence user an overall graphic representation of the extent of the nonrural areas. To view maps, go to the Office of Subsistence Management Web site at <http://alaska.fws.gov/asm/home.html>. If you do not have access to the internet, you may contact the Office of Subsistence Management at the address or phone number shown at **ADDRESSES** or **FOR FURTHER INFORMATION CONTACT**, respectively, and we will send the maps to you.

During August–October 2006, the public and Federal Subsistence Regional Advisory Councils are invited to comment on the proposed rule. Hearings in Kodiak, Sitka, Saxman, and Ketchikan will be held in September and October 2006. The specific dates,

times, and locations will be announced in locally and Statewide—circulated newspapers or you may call the phone number shown at **FOR FURTHER INFORMATION CONTACT**. Additional hearings may be scheduled by the Board, as appropriate. In December 12–13, 2006, in Anchorage, Alaska, the Federal Subsistence Board will meet to consider the comments received and may make changes to the proposed rule. From the decisions made in December, the Board will develop a final rule for publication in the **Federal Register**. The effective date of any community or area changing from a rural to nonrural status is 5 years after the date of publication of the final rule in the **Federal Register**. For communities or areas that change from nonrural to rural, the effective date is 30 days after the date of publication of the final rule in the **Federal Register**.

Because the Federal Subsistence Management Program relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, we propose to incorporate identical text into 36 CFR part 242 and 50 CFR part 100.

#### Conformance With Statutory and Regulatory Authorities

##### National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and

staff analysis, and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comments received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C, published May 29, 1992, implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. The following **Federal Register** documents pertain to this rulemaking:

#### FEDERAL REGISTER DOCUMENTS PERTAINING TO SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A AND B

Federal Register citation	Date of publication	Category	Detail
57 FR 22940 .....	May 29, 1992 .....	Final Rule .....	"Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the Federal Register establishing a Federal Subsistence Management Program.
64 FR 1276 .....	January 8, 1999 .....	Final Rule (amended) ..	Amended 7 FR 22940 to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or an Alaska Native Corporation. Specified and clarified Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533 .....	June 12, 2001 .....	Interim Rule .....	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.

FEDERAL REGISTER DOCUMENTS PERTAINING TO SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A AND B—Continued

Federal Register citation	Date of publication	Category	Detail
67 FR 30559 .....	May 7, 2002 .....	Final Rule .....	In response to comments on an interim rule, amended the operating regulations. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703 .....	February 18, 2003 .....	Direct Final Rule .....	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035 .....	April 30, 2003 .....	Affirmation of Direct Final Rule.	Received no adverse comments on 68 FR 7703. Adopted direct final rule.
68 FR 60957 .....	October 14, 2004 .....	Final Rule .....	Established Regional Council membership goals.
70 FR 76400 .....	December 27, 2005 .....	Final Rule .....	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available from the office listed under **FOR FURTHER INFORMATION CONTACT.** The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action significantly affecting the human environment and therefore signed a Finding of No Significant Impact.

*Compliance With Section 810 of ANILCA*

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A section 810 analysis was completed as part of the FEIS process. The final section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but that the program is not likely to significantly restrict subsistence uses.

*Paperwork Reduction Act*

This rule contains no new information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. The information collection requirements described in the CFR regulations were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018–0075, which expires August 31, 2006. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

*Other Requirements*

**Economic Effects**—This rule is not a significant rule subject to OMB review under Executive Order 12866. This rulemaking will impose no significant costs on small entities; this rule does not restrict any existing sport or commercial fishery on the public lands, and subsistence fisheries will continue at essentially the same levels as they presently occur. The number of businesses and the amount of trade that will result from this Federal land-related activity is unknown but expected to be insignificant.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of regulatory flexibility analyses for rules that will have a significant economic effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as tackle, boat, sporting goods dealers, and gasoline dealers. The number of small entities affected is unknown; however, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these

regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Secretaries have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless the State program is compliant with the requirements of that Title.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no substantial direct effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this

action is not a significant action and no Statement of Energy Effects is required.

William Knauer drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Chuck Ardizzone, Alaska State Office, Bureau of Land Management; Greg Bos, Carl Jack, and Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service; Dr. Warren Eastland, Pat Petrivelli, and Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, Alaska Regional Office, USDA—Forest Service provided additional guidance.

#### List of Subjects

##### 36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

#### List of Subjects

##### 50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Secretaries propose to amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

#### PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 would continue to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

#### Subpart C—Board Determinations

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § \_\_\_\_\_.23(a) would be revised to read as follows:

\* \* \* \* \*

##### § \_\_\_\_\_.23 Rural Determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § \_\_\_\_\_.15 except the following:

- (1) Fairbanks North Star Borough;
- (2) Homer area—including Homer, Anchor Point, North Fork Road area, Kachemak City, and the Fritz Creek area (not including Voznesenka);

(3) Juneau area—including Juneau, West Juneau, and Douglas;

(4) Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatoof, Kalifornsky, Kasilof, and Clam Gulch;

(5) Ketchikan area—including all parts of the road system connected to the City of Ketchikan (except Saxman), Pennock Island, and parts of Gravina Island;

(6) Kodiak area—including the City of Kodiak, the Mill Bay area, the Coast Guard Station, Womens Bay, and Bells Flats;

(7) Municipality of Anchorage;

(8) Prudhoe Bay;

(9) Seward area—including Seward and Moose Pass;

(10) Valdez; and

(11) Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, Point MacKenzie, and Bodenbergt Butte.

You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service, Office of Subsistence Management.

\* \* \* \* \*

Dated: July 24, 2006.

**Peter J. Probasco,**

*Acting Chair, Federal Subsistence Board.*

Dated: July 24, 2006.

**Steve Kessler,**

*Subsistence Program Leader, USDA—Forest Service.*

[FR Doc. 06–6902 Filed 8–11–06; 8:45 am]

**BILLING CODE 3410–11–P; 4310–55–P**

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

##### 36 CFR Part 242

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 100

##### RIN 1018–AU15

#### Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2007–2008 Subsistence Taking of Wildlife Regulations; 2007–2008 Subsistence Taking of Fish on the Kenai Peninsula Regulations

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of

wildlife for subsistence uses during the 2007–2008 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. When final, this rulemaking would replace the wildlife taking regulations included in the “Subsistence Management Regulations for Public Lands in Alaska, Subpart D—2006–2007 Subsistence Taking of Fish and Wildlife Regulations,” which expire on June 30, 2007. This rule would also amend the Customary and Traditional Use Determinations of the Federal Subsistence Board and the General Regulations on taking of wildlife. In addition, at the request of the Southcentral Subsistence Regional Advisory Council, the Federal Subsistence Board is accepting proposals to revise the regulations for fishing seasons, harvest limits, and methods related to taking of fish on the Kenai Peninsula for subsistence uses during the 2007–2008 regulatory year.

**DATES:** The Federal Subsistence Board must receive your written public comments and proposals to change this proposed rule no later than October 20, 2006. Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings to receive proposals to change this proposed rule on several dates from September 7, 2006, through October 20, 2006. See **SUPPLEMENTARY INFORMATION** for additional information on the public meetings, including dates.

**ADDRESSES:** You may submit proposals electronically to [Subsistence@fws.gov](mailto:Subsistence@fws.gov). See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing. You may also submit written comments and proposals to the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503. The public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

**FOR FURTHER INFORMATION CONTACT:** Pete Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, (907) 786–3592.

#### SUPPLEMENTARY INFORMATION:

##### Public Review Process—Regulation Comments, Proposals, and Public Meetings

The Federal Subsistence Board (Board), through the Regional Councils, will hold meetings on this proposed rule at the following Alaska locations, on the following dates:

## COUNCIL COMPOSITION UPDATE

In December 1998, Safari Club International (SCI) and others filed a lawsuit against the Secretaries of the Interior and of Agriculture and the Federal Subsistence Board. The original complaint challenged specific subsistence priority determinations and the process for making those determinations. In 2000, SCI amended its complaint to challenge the composition of subsistence regional advisory council (Council) membership. In 2003, the Council charters were changed to stipulate that members would represent either subsistence or commercial/sport users and to set a goal of 30% representation of commercial and sport users on each Council.

In August 2006, the Court concluded that the Board had not provided a sufficient administrative record showing rationale for the 70:30 Council composition plan. The Court ordered the Board to stop using the 70:30 system after the 2006 Council member appointment process and to promptly begin developing a plan for balanced membership that will meet ANILCA and FACA requirements. The Court stated that while 70:30 is one way of meeting FACA requirements, the Board should consider other ways of achieving balanced membership on the councils. Therefore, to address the Court's concerns and to be as inclusive as possible in developing the membership plan, the Office of Subsistence Management is proceeding as follows.

- As soon as possible, publish a 30-day notice in the Federal Register which will explain the current situation and the rationale for the 70:30 rule. The notice will request public comments regarding the 70:30 rule and solicit alternative plans for balanced Council membership.
- The content of the Federal Register Notice will be presented to the Councils at the winter 2007 meetings. At that time the Councils may hear public testimony and provide comments and suggestions.
- The Board will receive the Councils' and public comments, including pertinent testimony given at Council meetings, at the May 2007 Board meeting. The Board will review all suggested alternatives and modifications and develop a recommendation to the Secretaries.

If necessary, the Departments of the Interior and Agriculture will then begin the rule-making process.



## **DRAFT CLOSURE, SUA, AND C&T POLICIES UPDATE**

August 29, 2006

### **DRAFT CLOSURE POLICY**

This draft policy describes how the Federal Subsistence Board will handle closures to hunting, trapping and fishing on Federal public lands in Alaska. All of the Regional Advisory Councils reviewed a draft of this policy at their winter 2006 Council meetings. Revisions were made to the draft policy based on comments from the Councils, the State of Alaska, and the Solicitor's office. At their August 25, 2006 meeting, the Board took more public comments and asked that a subcommittee of the Board work on this issue. Staff is continuing to review wildlife closures. Three of the ten Councils will be reviewing closures in their regions during the fall 2006 Council meeting cycle.

### **DRAFT SUBSISTENCE USE AMOUNTS (SUA) PROTOCOL**

This draft protocol was intended to provide guidance to State and Federal managers for coordinating subsistence management. A draft of the protocol was provided to the Councils for their review at the winter 2006 meetings. Many of the Councils raised serious concerns about some of the State's Amounts Necessary for Subsistence (ANS) numbers and the implications of using these numbers for management. No further work has been done on the draft protocol since the winter 2006 Council meetings, and a plan has yet to be developed for how to better approach the issue.

### **DRAFT CUSTOMARY AND TRADITIONAL USE (C&T) POLICY**

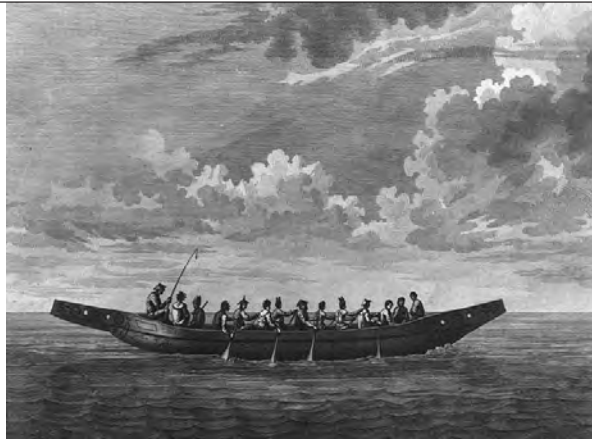
The purpose of the draft policy is to develop a clear written explanation of the Board's C&T use determination process. In recent years, ADF&G has expressed concerns that some of the Board C&T findings could create a larger pool of users, which could restrict nonsubsistence users. Staff is examining various options in developing this policy. The goal is to have a draft ready for review by the Councils during the winter 2007 meetings. A lawsuit has recently been filed by the State of Alaska concerning a Unit 12 Federal Subsistence Board C&T determination for Chistochina and Menatasta; this may complicate ongoing discussions with the State on the C&T Policy. Staff is putting together the administrative record on this C&T decision to file it with the 9th Circuit Court in early September.

## **Secretarial Petition: Hunting Licenses**

The Federal Subsistence Board approved distributing the following petition from the Southeast Alaska Subsistence Regional Advisory Council to each of the nine Regional Advisory Councils for review and recommendations. This petition is included with Fall 2006 meeting materials.

The petition requests the Secretaries to issue a Federal hunting license to Federally qualified subsistence users hunting on Federal public lands, instead of the current requirement in Federal subsistence management regulations that Federally qualified subsistence users must have a State-issued hunting license when hunting on Federal public lands.

Any Council comments and recommendations should be forwarded to the Southeast Council. These will be included with the petition when the Southeast Council submits it to the Secretaries. The Secretaries of Agriculture and the Interior have authority to change license requirements.



***Southeast Alaska Regional  
Advisory Council***

**Dolly Garza, Ph. D.,  
Vice-Chair**

**University of Alaska  
Marine Advisory Program  
2417 N. Tongass 213A  
Ketchikan, AK 99901  
907-247-4978  
*ffdag@uaf.edu***

March 30, 2006

Mitch Dementieff, Chair  
Federal Subsistence Board  
3601 C Street, Suite 1030  
Anchorage, AK 99503

Dear Mr. Dementieff,

The Southeast Alaska Regional Advisory Council (SERAC) met in Saxman, February 27 through March 3, 2006. At this meeting the Council reviewed the attached petition to the Secretaries of Interior and Agriculture concerning the present requirement that subsistence hunters possess a State of Alaska hunting license in order to hunt under Federal subsistence regulations. Because this is a statewide issue, other Regional Advisory Councils need the opportunity to review the draft SERAC petition and to provide their comments and suggestions. The Council proposes the following course of action to solicit input from other Regional Advisory Councils, revise, complete, and submit this petition for consideration by the Secretaries:

1. The draft SERAC petition will be provided to all Councils for their review and recommendation at fall 2006 Council meetings.
2. Councils will provide their comments and recommendations back to SERAC within one month of fall meetings.
3. SERAC will hold a teleconference meeting to finalize the petition on approximately Nov. 25, 2006. The comments and recommendations of other Councils will be appended to the final petition. The final petition will be submitted end of November, 2006.

Please address any questions with this letter either directly to me or through Dr. Robert Schroeder, Subsistence Management Coordinator, U. S. Forest Service, Alaska Region, Box 21628, Juneau, AK 99802-1628, 1(800) 586-7895, fax (907) 586-7860, [rschroeder@fs.fed.us](mailto:rschroeder@fs.fed.us).

Thank you for considering the recommendations of the Southeast Regional Advisory Council.

Yours truly,

s/s DOLLY GARZA

Dolly Garza, Vice-Chair

cc. Council Members:

Bert Adams Jr., Yakutat

Donald Hernandez, Pt. Baker/Petersburg

Floyd Kookesh, Angoon

Patricia Phillips, Pelican

Michael Bangs, Petersburg

Harvey Kitka, Sitka

Dick Stokes, Wrangell

Mike Douville, Craig

Nick James, Kake

Michael Soufoulis, Juneau

Frank Wright Jr., Hoonah



## DRAFT PETITION TO THE SECRETARIES CONCERNING HUNTING LICENSES

Secretary of the Interior

Mike Johanns  
Secretary of Agriculture

Dear Secretaries,

For a number of years, the Council has been concerned with the requirement that Federally-qualified subsistence hunters, using Federal lands to meet their subsistence needs, have been required to purchase and carry State of Alaska hunting licenses. The Council believes that this requirement is unnecessary, puts an undo financial and regulatory burden on Federally-qualified subsistence users, and conflicts with the intention of ANILCA to provide protection in Federal law for subsistence uses.

The Southeast Alaska Subsistence Regional Council (SERAC) met in Saxman, February 27 through March 3, 2006. The Council represents all southeast subsistence communities including Yakutat. The Council is authorized by the Alaska National Interest Lands Conservation Act (ANILCA), and chartered under the Federal Advisory Committee Act, to provide recommendations to the Federal Subsistence Board concerning regulatory and land management actions that may affect subsistence uses of fish and wildlife. ANILCA and the charter also recognize the Council's authority to "initiate, review and evaluate proposals for regulations, policies, management plans, and other matters related to subsistence uses of fish and wildlife on public lands within the region" and to "provide a forum for the expression of opinions and recommendations....(on) any matter related to the subsistence uses of fish and wildlife on public lands within the region."

The Council approved this Petition to the Secretaries at it Saxman meeting by unanimous vote on SERAC resolution 06-04. This petition requests deletion of the current requirement that Federally-qualified subsistence purchase and carry State of Alaska hunting licenses while hunting under Federal subsistence management regulations on Federal public land. The Council requests that this petition be provided to other Subsistence Regional Advisory Councils at their Fall 2006 meetings for review, revision, and concurrence.

### Council authority

The Council has addressed the license issue in its recent Annual Reports to the Secretaries. Councils are authorized to submit Annual Reports under ANILCA Sec. 805 (a) (3) (D). Among other things, the Councils Annual Reports shall contain:

*(iii) a recommended strategy for the management of fish and wildlife within the region to accommodate such subsistence uses and needs; and*

*( iv) recommendations concerning policies, standard guidelines, and regulations to implement the strategy...*

The Council considers this statutory direction to be central to its ability to represent subsistence interests in Southeast Alaska and insure that ANILCA protections for subsistence are in place. The Council believes that the license requirement is an issue of 'taking.' Under current Federal regulations, a Federally-qualified subsistence hunter may only take game if he or she is in possession of a State of Alaska hunting license. Because this is an issue of 'taking,' the Council believes that its recommendation concerning this provision is due deference under ANILCA Sec. 805 (c):

*The Secretary, in performing his monitoring responsibility pursuant to section 806 and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regional for subsistence uses. The Secretary may choose not to follow any recommendations which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.*

### **Background on the current license requirement**

**Current regulations.** Information provided to the public in *Management Regulations for the Harvest of Wildlife on Federal Public Lands in Alaska* states,

*Subsistence hunters and trappers are required to possess State hunting and trapping licenses.*

Authorization for this license requirement is found in 36 CFR Ch. II (7–1–03 Edition)

**§ 242.6 Licenses, permits, harvest tickets, tags, and reports.** (a) *If you wish to take fish and wildlife on public lands for subsistence uses, you must be an eligible rural Alaska resident and:* (1) *Possess the pertinent valid Alaska resident hunting and trapping licenses (no license required to take fish or shellfish, but you must be an Alaska resident) unless Federal licenses are required or unless otherwise provided for in subpart D of this part;* (2) *Possess and comply with the provisions of any pertinent Federal permits (Federal Subsistence Registration Permit or Federal Designated Harvester Permit) required by subpart D of this part;* (3) *Possess and comply with the provisions of any pertinent permits, harvest tickets, or tags required by the State unless any of these documents or individual provisions in them are superseded by the requirements in subpart D of this part.*

Current Federal regulations require no license for subsistence fishing or taking of shellfish. They do require Federally-qualified subsistence users to possess State of Alaska hunting and trapping licenses.

**Regulatory background.** The Federal Subsistence Program's regulatory specialist, Bill Knauer, Office of Subsistence Management, provided the following background on this requirement, in response to the Council's request for information (pers. comm. 2005):

The initial intent as stated in the June 8, 1990 proposed rule was as follows "The intent of these regulations is to maximize the use of the State license system and permit system, consistent with the sound management of fish and wildlife and fulfillment of the Secretary's Title VIII responsibilities." This statement was reiterated in the June 29, 1990 final rule and an additional statement "Separate Federal licenses, permits, harvest tickets or tags will only be required where the State's requirements for licenses, permits, harvest tickets or tag conflict with the Federal government's efforts to provide for subsistence preference for rural residents on public lands." In the final rule of January 8, 1999, the statement is made "We have attempted to avoid confusion and unnecessary duplication wherever possible when establishing this program. The retention of State permits and licenses is one area where it is possible to avoid unnecessary duplication." The following statement is found in a 1996 briefing document that addressed residency and licensing requirements:

*The requirement for an individual to possess a hunting or fishing license is consistent with sound management principles. The information obtained from the issuance of licenses allows managers*

*to estimate the hunting or fishing pressure likely to be directed at wildlife populations in certain areas. The revenues obtained from licenses directly support the Alaska Department of Fish and Game, providing for wildlife surveys, research, habitat improvement, education and information. License sales also result in millions of dollars in matching funds coming from the Federal government for the specific purpose of habitat acquisition, improvement and wildlife management.*

In response to comments from John Littlefield and others, a reply to Mr. Littlefield from the Assistant Regional Director, Office of Subsistence Management in late 2004/early 2005 contained the following information:

The Federal Subsistence Management Program presently requires Federally-qualified subsistence hunters to possess an Alaska resident hunting license. This requirement was established during development of the original Federal Subsistence Management Program structure. The Secretaries decided that the cost of a general hunting license (currently \$25.00 or \$5.00 in the case of a low income license) is minimal in comparison to the benefits accruing to both the subsistence user and the State. Not only is necessary user and harvest information collected from licenses, harvest tickets, and reports, but the Alaska Department of Fish and Game generates monies to conduct important wildlife studies and surveys that translate into better management of wildlife resources for all users.

The State of Alaska resident general hunting license costs \$25. There are no sport hunting licenses. All Alaska residents 16 years or older must possess a valid license to hunt. Residents 15 or younger are not required to have a license in order to hunt. Residents 65 or older may hunt with a free identification card. A resident may purchase a \$5 low income license if his family income is below \$8,200 (before taxes) or he obtained assistance during the preceding six months under any State or Federal welfare program. The monies collected from license fees go into the ADF&G budget, not the general State Treasury.

Additionally, the Alaska Department of Fish and Game receives significant Federal funds through the Federal Aid to Wildlife Restoration Program. In 2004 this amounted to \$8,648,602 and in 2003 the amount was \$9,107,484. The apportionment is determined by a formula which considers the total area of the state and the number of licensed hunters in the state. When utilizing these funds, the state must provide at least 25 percent of project costs from a non-federal source. Projects that are eligible for funding under this program include: wildlife population management, habitat management, surveys and inventories, research, hunter/trapper education, land acquisition, etc.

In January 1996, the Federal Subsistence Board concluded that “The requirement for an individual to possess a hunting or fishing license is consistent with sound management principles. The information obtained from the issuance of licenses allows managers to estimate the hunting or fishing pressure likely to be directed at wildlife populations in certain areas.”

#### **Council license considerations.**

1. **Affected subsistence users.** Residents of Adak, Anchorage, Fairbanks, Homer (and nearby communities), Juneau, Kenai (and nearby communities, Ketchikan, the Matanuska-Susitna area, the Seward area, and Valdez are presently considered non-rural places for the purposes of Federal subsistence management. All other Alaskan residents, living in approximately 220 communities, are considered rural residents and are eligible for subsistence harvesting under the Federal program (Federally-qualified users). ANILCA was written to guarantee the continuance of

cultural and social subsistence activities by members of these communities.

2. **Affected area.** Over half of Alaska's land area consists of Federal Public Land under the administration of Department of Interior or Department of Agriculture. Roughly 200 million of Alaska's 365 million acres are under Federal management. In Southeast Alaska, except for Native corporation land, limited state and municipal withdrawals, and small amounts of private land, land is administered by USDA Forest Service and DOI National Park Service, with very small amounts of land administered by other Federal agencies. Statewide, a large majority of the harvesting of land mammals by Federally-qualified subsistence users takes place on Federal Public Land. In Southeast Alaska, almost all subsistence harvesting of land mammals takes place on Federal Public Land.
3. **Rationale for adoption of State of Alaska license regulations.** The 1989 State of Alaska Supreme Court decision in the McDowell case ruled that the rural provisions of the State subsistence law were unconstitutional. This ruling meant that the State of Alaska could not comply with the ANILCA provisions requiring provision of a preference for rural subsistence users.

The expectation following this court decision was that the State of Alaska would quickly amend its constitution to comply with the rural provisions of ANILCA. The State of Alaska legislature had changed the State subsistence law to incorporate a rural preference a few years before the 1989 State Supreme Court decision. The initial actions of the Federal Subsistence Program attempted to minimize change from the State of Alaska regulatory program. Accordingly the Federal program adopted most of the State of Alaska regulations and procedures wholesale to minimize public confusion and to allow a speedy transition back to State of Alaska management of subsistence. To this end the Federal program adopted most season and harvest limit regulations, most State customary and traditional determinations and procedures, and State license requirements. Throughout the 1990s serious attempts were made to bring the State of Alaska constitution in compliance with ANILCA provisions. Since 2000, the State of Alaska has discontinued its efforts to regain management authority over subsistence through constitutional, legislative, or congressional means.

State license requirements in 1990 required that subsistence users possess a state hunting license. State regulations did not require possession of a state fishing license.

The Council believes that this initial decision was a reasonable one, given the anticipation that Federal management of subsistence in Alaska would be of very limited duration. We do not believe, however, that this temporary acquiescence to State of Alaska regulations and license requirements continues to be warranted.

4. **Current license issues.** We are now in the 17<sup>th</sup> year of Federal management of subsistence harvests on Federal public land in Alaska. All indications are that the Federal program will continue indefinitely into the future. We believe that it is appropriate to review and revise the initial Federal program decision concerning requiring Federally-qualified subsistence users to possess State of Alaska hunting licenses.
5. **ANILCA.** Nothing in the authorizing legislation requires the use of State of Alaska hunting licenses. The decision to require licenses was a Secretarial decision made during the initial organization of the Federal Subsistence Program. The Council believes that this initial decision is ripe for review and should be subject to a new Federal rulemaking.



6. **State support for ANILCA subsistence protections.** Under State of Alaska statutes, State management and regulatory actions are unable to comply with, much less actively support, the provisions of ANILCA which require subsistence protections to Federally-qualified rural residents. The 1989 State of Alaska Supreme Court decision simply does not allow a rural preference. In recent years, the State has frequently opposed the provisions season and harvest regulations that the Councils recommended as being necessary to meet subsistence needs. The State has often opposed the very limited restrictions placed on non-Federally qualified hunters and fishers that the Councils and the Federal Subsistence Board have found to be needed to allow for subsistence harvests. The State has opposed Federal provisions required by ANILCA to regulate customary trade, use of nonedible parts of subsistence harvests for handicrafts, and to allow designated hunters to provide fish and wildlife to members of their communities. This opposition to the interests of Federally-qualified subsistence users has been partially funded by the license fees these users pay to the State of Alaska.

License fees also support some construction of facilities to support hunting and fishing. These facilities may include boat ramps, viewing stations, or firing ranges. The Council believes that these facilities, partially supported by State license fees, generally are not used by nor serve the interests of rural subsistence users.

Much of the biological research undertaken to support species used for subsistence is funded directly by the Federal Subsistence Program, and much of the other data collection that documents subsistence harvests and use and supports the Federal Subsistence Program is funded directly with Federal funds. Most of this work is undertaken directly by Federal biologists working for the four Federal land management agencies and the Bureau of Indian Affairs, or under Federal contract with communities, tribal government organizations, universities, other researchers, and with the Alaska Department of Fish and Game. Federal agencies provide about \$3,000,000 per year to the department for biological and traditional ecological knowledge studies to provide information. The fees from the State of Alaska hunting licenses required of Federally-qualified hunters do not account for a major share of funds spent on the staffing or data collection that supports the Federal Subsistence Program.

Furthermore, the Federal government provides the State of Alaska with funding to support needed liaison and coordination functions with the Federal Subsistence Program. The Federal agencies provide about \$500,000 yearly to the Alaska Department of Fish and Game for these activities. These liaison and coordination functions are not funded through the use of the hunting license fees in question.

The Council respects the professional integrity and competence of Alaska Department of Fish and Game biologists and anthropologists, and uses their expertise, along with the expertise of Federal, tribal, and non-government specialists, in making its recommendations. The State staff's responsibility, however, is determined by State of Alaska statutes and does not align with ANILCA requirements.

7. **Financial Implications.** The current State of Alaska license creates a financial burden on Federally-qualified subsistence users, many of whom have limited cash resources. Recent efforts by the Alaska Department of Fish and Game to increase license fees would have fallen disproportionately on rural users.

State license fees are used as matching funds for Federal matching funds under Pittman-Roberts, Wallop-Boureaux, and Dingle-Johnson programs. The Federal funds come from taxes on rifles, ammunition, and other gear used by hunters. The Council believes that these uses of license fees

and taxes paid by rural hunters are not presently being used for the benefit of Federally-qualified subsistence users. The State uses these funds primarily to support programs that benefit non-Federally qualified hunters and support the State management direction, which strongly opposes the ANILCA subsistence provisions.

### **Remedy**

The Council petitions the Secretaries to eliminate the requirement that subsistence users possess a State of Alaska hunting license. This change will require a formal rulemaking. The Council proposes a number of steps to reach this regulatory change.

1. Based on consultation with Federal staff, the regulatory change should probably be made at XXX.

Suggested wording:

(xxx) A Federal hunting license will be issued to a qualified Federal subsistence user. This license authorizes the licensee to hunt under Federal subsistence regulations on Federal Public Land. No other license is required. If hunting under this license, the user must have this license in possession while in the field.

## Anchorage Field Office BLM Report 2006 Fall Meeting Bristol Bay Regional Advisory Council

### **Bay Plan Resource Management Plan (RMP) Update**

The Draft Bay Resource Management Plan/Environmental Impact Statement has been sent to the printer. The Notice of Availability for its review should appear in the Federal Register at the end of September (anticipated target date September 29, 2006). The draft Bay Plan at that time will be available for a period of 90 days for review and comment. The chairs of each of the three regional Subsistence Resources Advisory Councils will receive the draft to share with their respective councils for a 90 day review period, during which time BLM Anchorage Field Office will be accepting formal comments. In conjunction with release of the draft, a series of meetings will be held in the planning area to brief residents and to gather their comments. Four Alternatives for management are provided in the Draft. Commenters who wish to support a particular Alternative are not bound to the whole Alternative, but may pick and choose among different parts of different Alternatives that best suit their management preferences.

The Anchorage Field Office will also hold a series of Federal Subsistence hearings in communities throughout the Bay area relative to the Plan as required by ANILCA to obtain comments as well. The communities for said hearing have not been determined at this time and will be announced and organized later. We look forward to your participation in this important BLM process.

### **Mulchatna Caribou Monitoring**

The Anchorage Field Office of the BLM continues to participate in the interagency monitoring efforts for the Mulchatna caribou to the degree possible for the year around monitoring efforts including calving surveys, capture operations, telemetry flights, fall classification, and seasonal range use, and habitat use, distribution and movements. Currently BLM and ADF&G are jointly applying for a National Fish and Wildlife Foundation Grant to complete the recently ADF&G initiated investigations of Recruitment and distribution of bulls in the Mulchatna Caribou Herd. ADF&G researcher Bruce Dale is the lead investigator.,

### **2006 Field Season Summary-Fisheries: Cooperative Fisheries Inventory Project ADF&G and BLM.**

#### **NEED**

Alaska's Constitution directs state government to manage wild Anadromous and resident fish stocks to provide sustained yields. Spawning, rearing, and migratory fish habitats must function fully to achieve this goal. Available fish habitat management tools are predicated on knowledge of the distribution of individual species and life stages, but in the vastness of Alaska only a fraction of extant freshwater fish habitats have been documented. Until these habitats are inventoried, management tools cannot be applied. While there are no substitutes for field surveys, logistic constraints prevent rapid assessments across the entire state. With this project, we will collect field information both of direct and immediate management utility and which is necessary for the development of novel spatial statistical models (Ver Hoef et al. In Press) for stream networks that will estimate relationships between species occurrence and a hierarchy of GIS-generated landscape attributes and will make predictions at unsampled locations. These models will improve the efficiency of future fieldwork and will provide planning tools for management, research, and monitoring programs.

These models require field data from the region to which the model will be applied to identify relationships between landscape variables and fish distributions and to generate valid predictions at unsampled locations within that region. This project will collect necessary field data to construct an initial distribution model for freshwater fish species within the Nushagak-Mulchatna drainage.

We select the Nushagak-Mulchatna drainage for this model development effort because of the extensive dataset produced by our 2003 and 2005 field efforts and because of increased interest in the resources of this area stimulated by recent mineral and hydrocarbon development proposals. Our previous Nushagak-Mulchatna drainage survey work collected data on fish occurrence in low-order streams. While we now have a good dataset for these headwater streams, the distribution most freshwater species native to the Nushagak-Mulchatna drainage are limited to habitats downstream of the area covered by these previous surveys. Our goal in 2006 is to inventory the remaining larger streams and rivers in this drainage.

Because many agencies have habitat management responsibilities, and need access to the best available information, all field information will be distributed via the Alaska Freshwater Fish Inventory ArcIMS site (ADF&G 2006). We will also submit all appropriate observations to the Alaska Department of Fish and Game (ADF&G) Fish Distribution Database (FDD), and thus to the Alaska Department of Natural Resources Anadromous Waters Catalog (AWC).

A central goal of this project is an inventory of fish assemblages, not individual species or selected species groups. We emphasize this approach for several reasons, including:

1. Single species or species group surveys do not provide ecosystem-level information. For example, patterns of individual species distribution may be a function of inter-specific relationships (e.g., competitive or predator-prey). Collecting data only on specific members of the fish community precludes examination of these potential relationships.
2. It is logistically efficient. Given Alaska's vastness and remoteness, transport to sample locations often is the most difficult impediment to data collection. Therefore, the limited additional cost of collecting data on all members of the extant fish community is small relative to the cost of traveling to study locations.
3. Our mix of funds target both harvested and non-harvested fish species.
4. Although some taxa (e.g., anadromous fish and salmon in particular) have increased current management interest, all species trigger some regulatory processes and are of management and scientific interest.

In addition to needing models to predict the distribution of freshwater fish, we need to prepare for future survey work by determining the minimum sampling distance required to adequately represent the fish assemblage of a reach. While we need to accurately and precisely identify all species and life stages comprising local fish assemblages, we need to do so efficiently. What comprises sufficient sampling effort, particularly in non-wadeable Alaskan waters, remains an unsettled question (Cao et al. 2001, Hughes et al. 2002, Flotemersch and Blocksom 2005). This project will address this issue with regional data.

Historically, fish habitat surveys in Alaska have focused almost exclusively on sites considered imminently threatened, or actively impacted, by human activities. While a reasonable and necessary approach, it is not a sufficient strategy to insure the sustainability of Alaska's freshwater fish resources. With this reactive approach, fish habitat data collections and analyses are never early in project development trajectories, and results arrive too late to contribute to major management decisions, or to effectively inform project design. With our current fish habitat inventory program, we strive to proactively prepare for management information needs. The historic approach of investigating only imminently threatened or actively impacted habitats also constrains the range of scientific inference that can be made with collected data. Our goal with these

investigations is to provide necessary fish habitat data to decision makers early in the project scoping process and to assess relationships between fish and natural habitats unconfounded by local anthropogenic habitat alterations.

## BENEFITS

By providing more complete and more accessible fish community and habitat information, we will help our own agency, as well as other federal, state, and local resource agencies better implement their respective short- and long-term fish habitat protection, land use planning, and research missions.

## OBJECTIVES

Because of the vast scale of our long-range goal of documenting fish community distributions throughout Alaska, we distinguish between ultimate, long-range objectives and the objectives we can achieve within the scope of the currently funded program.

### Ultimate objectives

Objective 1: Inventory the total spatial and temporal freshwater distribution, by species and life stage, of Alaskan fish communities.

Objective 2: Inventory the habitats that support these fish communities.

### Near-term objectives

Objective 1. Perform intensive sampling within the Nushagak-Mulchatna drainage to provide data on spatial variation necessary to fit spatial prediction models and develop sampling protocols to support spatial analyses and prediction of fish distribution.

Task 1: Locate sampling reaches at specific locations (stream distance and juxtaposition) to collect site-specific data at different spatial scales. At each sampling reach, record explicit spatial coordinates and record the occurrence and type of natural or anthropogenic barriers to fish passage.

Task 2: In each sampling reach, record the species, life stage, and number of visually observable fish and record the species, life stage, number, and fork-length of anadromous and non-anadromous fish captured using field sampling techniques, and describe the field sampling techniques, sampling time, and extent of area sampled.

Task 3: At each sampling station, record aquatic and riparian habitat parameters.

Objective 2. Sample local fish communities to provide data on sufficient sampling reach length.

Task 1: Record fish species diversity in spatially sequential sampling sub-reaches. At each of 4 consecutive sampling sub-reaches, each equivalent in length to 10 channel widths, record all species collected.

Objective 3. Record characteristics of aquatic and riparian habitats at each sampling location such that sufficient information is documented to: a) provide field-measured covariates to relate to remotely-sensed data; b) identify well-supported and adequate habitat protection stipulations for permitting of local low level disturbances; or c) identify specific further sampling needs and methods necessary to design adequate habitat protection stipulations or mitigation for permitting moderate or greater level disturbances.

Task 1: At each sampling station, record aquatic habitat parameters.

Task 2: At each sampling station, record riparian habitat parameters.



## PROCEDURES

Sampled locations will be selected to maximize the increase in our understanding of landscape controls on fish distribution. In 2003 and 2005, we inventoried sites on wadeable streams. In 2006, we will select reaches principally within non-wadeable Nushagak-Mulchatna drainage stream networks. This will be the final year of our Nushagak-Mulchatna drainage flowing water inventory. Lentic surveys should be conducted in future years.

We will simultaneously deploy five 2-person teams: 1 river (jet) boat team on the Nushagak and 1 riverboat team on the Mulchatna river mainstem and large tributaries, 2 drift boat (1 inflatable cataraft and 1 inflatable canoe) teams for smaller, non-wadeable streams, and 1 wadeable site team. At selected reaches, we will sample the fish community with standardized methods and effort. Individuals of the extant fish community will be collected by single-pass electrofishing or, in the case of adult spawning salmon, for example, visually observed. Electrofishing is our principal fish assemblage collection gear because it is recognized as the most comprehensive and effective method for collecting fish in lotic systems (Barbour et al. 1999, Simon and Sanders 1999, Flotemersch and Blocksom 2005) and because this is the gear type we relied on in 2003 and 2005. At all locations we will sample a stream reach length standardized by channel size (four consecutive 10 wetted channel widths; total length = 40 wetted channel widths), and will sample all aquatic habitat types within that reach. Collected fish will be identified to species, tallied, fork length measured, and examined for external abnormalities.

Additionally, we will record a suite of water chemistry, channel morphology, and riparian habitat parameters at each sample site. To enhance data quality and completeness and data entry efficiency, all collected data will be immediately entered at the field station into an integrated database installed on a waterproof, shockproof computer. Anadromous fish observations will be submitted to the FDD and AWC. Results will be posted on a dynamic GIS-database integrated website (ADF&G 2006).

### **Red Top Mine Mercury Hazardous \Material Update:**

The Marsh Mountain location of the Red Top Mine was thoroughly investigated on the ground and the mine site and associated buildings indicated no hazardous materials present. The retort site is still in negotiation with the State DEC for closure of the case. The retort site may be subjected to further placement of 2 micro monitoring wells near the river bank to monitor any possible mercury movement toward the river. Resident fish species sampled contain less mercury accumulation than control samples from the region. Any question and detailed reports would be available at the Anchorage Field Office and the contact is Larry Beck, Hazardous Materials Specialist.

### **Conveyance Program Update:**

Significant blocks of State Selected lands have been conveyed to the State of Alaska in 2006. A number of village settlements are scheduled for completion in 2007 and many of the members of the Council are closer to these conveyances than subsistence biologists in the BLM. General maps will hopefully be available at the time of the RAC meeting to indicate the major changes in land ownership.



IN REPLY REFER TO:

## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Togiak National Wildlife Refuge  
P.O. Box 270  
Dillingham, Alaska 99576  
Phone 907-842-1063  
Fax 907-842-5402

### INFORMATION BULLETIN - August 2006

***Salmon Spawning Grounds Aerial Surveys*** Contact: Mark Lisac

Togiak Refuge annually works cooperatively with the State to monitor salmon escapement in nearly all rivers within the refuge. Spawning grounds are surveyed from aircraft to estimate the number of chum, Chinook, sockeye and coho salmon in both the Bristol Bay and Kuskokwim Bay drainages. Survey numbers will be included in the ADF&G Commercial Fisheries annual management reports for both regions.

***Cooperative Salmon Escapement Monitoring Projects*** Contact: Mark Lisac

Togiak Refuge provided support to the Native Village of Kwinhagak and ADF&G to operate salmon escapement monitoring projects on the Kanektok (FIS 04-305) and Middle Fork Goodnews Rivers (FIS 04-315). The Kanektok weir was damaged during the winter of 2005-06 and was not operational in 2006. The rail has been repaired and re-installed in the river. The panels are currently being repaired in Kwinhagak and should be ready for operation in June 2007. ADF&G has monitored Chinook, chum and sockeye salmon escapement on the Middle Fork Goodnews River since 1980. Escapement goals and management of the commercial fishery are based on salmon escapement at the weir. Togiak Refuge has worked with ADF&G since 1992 to include the coho salmon and Dolly Varden runs in the project operation. Federal subsistence fisheries funds provide operation for six weeks during the coho salmon run. Escapement numbers are preliminary at this time.

***Dolly Varden Life History Studies*** Contact: Mark Lisac

Since 1997, Togiak Refuge has learned much about the life history of Dolly Varden in the Togiak, Goodnews and Kanektok Rivers. We have radio tagged Dolly Varden in the Togiak, Kanektok, Middle and North Forks of the Goodnews Rivers. By tracking these fish we have identified important areas for spawning and overwintering. These fish spend the winter in the drainage and return to sea during May and June. These fish may not always return to their home waters to spend the winter. In the spring of 2005 a Dolly Varden tagged in the Kanektok River in 2003 was captured in subsistence net in Kwethluk on the Kuskokwim River and another was captured in a tributary to Norton Sound. Fish tagged in the Togiak River have been recaptured in the Egegik, Kanektok, Kuskokwim and Yukon Rivers. Three fish tagged during 2005 in the Goodnews River were reported captured by sport fishers in the Kanektok, Kulukak and Aniak Rivers. Reports of the findings from these various studies since 1998 are available. In 2006 we continued to work with ADF&G at the Middle Fork Goodnews River weir to monitor salmon escapement and the annual Dolly Varden runs. Preliminary results are that 1,920 Dolly Varden migrated up the MF Goodnews River. We sampled and tagged 303 of these. Dolly Varden were not sampled in the Kanektok River this year due to the weir not being in operation.

***Dolly Varden Genetic Baseline Study (FIS 06-701)*** Contact: Mark Lisac

In 2006 Togiak Refuge, and the Conservation Genetics Laboratory initiated a 3-year study to identify

discrete spawning populations of Dolly Varden in southwest Alaska using genetic analysis. Previous work in this area (FIS 00-011) have proven modern genetic techniques are reliable at identifying individual stocks between major rivers and between tributaries within a drainage. Fin samples have been collected from juvenile Dolly Varden in the Goodnews and Togiak district drainages. Prespawning adult Dolly Varden will be sampled during September 2006. ADF&G, Yukon-Delta NWR and others are providing collections from the Nushagak and Kuskokwim drainages. The collection efforts will continue in 2007.

***Digital Fish Monitoring Partnership*** Contact: Mark Lisac

Since 1999 the USFWS has worked with the City of Dillingham and State of Alaska to restore salmon access to the local Squaw Creek drainage. In recent years more salmon have returned to this small stream. In 2005 the Service partnered with the Bristol Bay Economic Development Corporation, Nushagak Cooperative and the Dillingham Chamber of Commerce to install a weir and underwater video camera to monitor salmon escapement into the drainage and bring awareness to the importance of even the smallest watershed. The final tally was 345 pink, 261 coho, 14 chum, 10 sockeye and 18 unknown salmon, and 12 Dolly Varden. Other species observed were starry flounder, numerous juvenile salmonids, smelt, river otter and beavers. Other benefits have been a demonstration of using this technology to monitor salmon escapement, creating a partnership of local interest to foster stewardship for the local fisheries resource and providing educational opportunity for the middle and high school students participating in the BBEDC annual Aquatic Science Academy (Salmon Camp). In 2006 the BBNA Fisheries Partners Intern shared operation of this project. The equipment will continue to operate through September. Recorded video is currently being processed.

***North Fork Goodnews River Rainbow Trout Population Estimate*** Contact: Pat Walsh

In the summer of 2005, Togiak Refuge and Kenai Fish and Wildlife Field Office staff conducted a population estimate of rainbow trout on the North Fork of the Goodnews River. Mark-recapture methodology was used, with fish captured and tagged by four anglers during a week-long float trip along 84 km of the river. This was followed by a second week-long float trip, during which fish were re-captured. A total of 178 rainbow trout were marked during the initial period, followed by 156 fish captured during the second period, of which 15 were recaptures. The population estimate of rainbow trout >250mm in length is 1,755 (90% confidence interval: 1,121-2,390). In summer of 2006, the survey was repeated, with similar effort and methodology. Data are currently being analyzed.

***Lake Trout Stock Structure*** Contact: Pat Walsh

An investigation of the genetic relationships and length structure of lake trout throughout Togiak Refuge was initiated in 2004. Since summer 2004, fifteen lakes (including Middle Fork, Canyon, Kagati, Hole, Arolik, Goodnews, Ongivinuk, Tikchik, Kanuktik, Ohnlik, Nenevok, Salmon, Heart, Little Swift, Chikuminuk Lakes) were sampled for lake trout. Samples were collected from all but Ongivinuk Lake, at which no lake trout were caught. One additional lake (High Lake) will be sampled during 2006, after which the stock structure will be characterized.

***Mulchatna Caribou*** Contact: Andy Aderman

Togiak Refuge assisted ADF&G with telemetry monitoring flights, composition surveys, satellite data acquisition, data entry and database management. Composition surveys in October 2005 estimated 13.9 bulls and 18.1 calves per 100 cows. The bull to cow ratio was the lowest since monitoring began in 1993 and the calf to cow ratio the second lowest. Results from the last photocensus, conducted in July 2006, are pending. The Alaska Board of Game made the following changes to caribou hunting regulations (which become effective for the 2006-2007 hunting season): 3 caribou bag limit of which only 1 caribou may be taken August 1 – November 30; hunting season closes after March 15. Togiak Refuge will continue its involvement with this important resource.

**Nushagak Peninsula Caribou** Contact: Andy Aderman

We continue to conduct telemetry flights once a month and weekly during calving. Minimum production in 2006 was 66.7 calves per 100 adults. A composition survey conducted October 2005 estimated 32.4 calves and 38.2 bulls per 100 cows. The Nushagak Peninsula Caribou Planning Committee will meet in October to review status reports of the population, previous hunts and revisit the Nushagak Peninsula Caribou Management Plan. The fall 2006 hunt was cancelled due to the population declining to less than 600 animals as prescribed by the Plan.

**Moose** Contact: Andy Aderman

Surveys conducted March 6 - 15, 2006 revealed a minimum of 1,330 moose on Togiak Refuge with the following breakdown: 64 in Unit 18 (Goodnews, Arolik, and Kanektok drainages), 1,023 in Unit 17A (Tvativak Bay west to and including the Osviak drainage) and 243 in Unit 17C (Youth and Killian Creeks, Weary, Igushik, Tuklung and Ongoke drainages). The previous high count of 25 moose in Unit 18 occurred in 2005. The previous high count of 777 moose in Unit 17A occurred in 2004. Togiak Refuge assisted ADF&G with moose surveys in the western portion of Unit 17B. The total population estimate for 2006 was 1,210 +/- 120 moose and is very similar to the 2001 estimate of 1,202 +/- 141 moose. Hunters reported taking 3 bulls during the Unit 17A/17C winter hunt.

In 2006, 32 radiocollared moose produced a minimum of 35 calves (109.4 calves per 100 cows) which included 2 sets of triplets. This ratio is below the long term average of 136.2 calves per 100 cows, however, we likely missed some calves due to a rapid green-up.

**Beaver** Contact: Michael Winfree

Togiak Refuge completed beaver cache surveys along thirteen selected rivers on the refuge in October 2005. Cache numbers in 2005 are within the range of historical surveys. In 2005, 460 caches were tallied in surveys covering 417 river miles. Survey results for 2005 resulted in average cache per river mile values of 0.8 for Unit 17A, 1.6 for Unit 17C and 1.6 for Unit 18.

**Walrus** Contact: Rob MacDonald

In 2006, Togiak Refuge walrus haulouts were monitored from both ground-based observation points and by aerial survey. Ground-based observations of the Cape Peirce walrus haulouts were conducted from May 5 to August 24 with a peak count of 41 animals.

Two aerial surveys of the Togiak Refuge walrus haulouts were conducted on January 13 to February 21. No walrus were observed at Cape Peirce or Hagemeister Island. Walrus numbers at Cape Newenham ranged from 0-313 animals.

In response to an unusual walrus mortality event in mid October 2005, staff erected a snow fence between the walrus haulout and the cliff tops. It is hoped the fence will rebuild a sand dune and prevent further access, and mortalities, to the cliff tops. During the 2006 summer, about two feet of wind blown sand was deposited around the fence.

**Seals** Contact: Rob MacDonald

In 2006, Togiak Refuge seal haulouts were monitored from both ground-based observation points and by aerial survey. Ground-based observations of the Nanvak Bay seal haulouts were conducted from May 6 to August 23 with a peak count of 493 animals.

Two aerial surveys of the Togiak Refuge seal haulouts were conducted on January 13 and February 21. No seals were observed on Nanvak Bay or Hagemeister Island haulouts.

***Steller Sea Lions*** Contact: Rob MacDonald

Two aerial surveys of the Steller sea lion haulout at Cape Newenham were conducted in January and February resulting in counts of 35 and 37 animals.

***Seabirds*** Contact: Rob MacDonald

In 2006, Togiak Refuge staff monitored the population and productivity of black-legged kittiwakes, common murre, and pelagic cormorants at Cape Peirce. Although the data is still preliminary, the population counts of each species were low. However, productivity data appears to be about average.

In conjunction with the Seabird Tissue Archival and Monitoring Project, Togiak Refuge staff collected seabird eggs for contaminants analysis. Glaucous-winged gull eggs were collected from Kikertalik Lake and Ualik Lake.

***Other Bird Projects*** Contact: Rob MacDonald

Togiak Refuge continued several other bird monitoring projects including: owl surveys; bald eagle nest productivity surveys; harlequin duck breeding pair surveys; and 3 public bird counts.

***Eelgrass Monitoring*** Contact: Michael Winfree

Togiak Refuge is investigating monitoring methods for eelgrass bed distribution along Bristol Bay and Kuskokwim Bay coastlines. Eelgrass beds are one of the more productive habitats along refuge coastlines, and play an important role in the health of the ecosystem. Waterfowl, fish, and invertebrates directly and indirectly depend on eelgrass beds along Togiak Refuge's coastline. In August 2006 staff confirmed the presence of eelgrass in beds that were photographed in 2005.

***Water Temperature Monitoring*** Contact: Pat Walsh

During 2006, Togiak Refuge personnel continued to collect and monitor water temperature in 17 rivers within the Togiak Refuge. Water temperature monitoring will provide vital data that can be used for assessing fish growth, water quality, and long term environmental change.

***Oral History and Traditional Knowledge Gathering*** Contact: Mark Lisac

Togiak Refuge initiated a study in 2002 to document TEK from village and tribal elders throughout the refuge. This is a cooperative project between Togiak Refuge, Office of Subsistence Management, Bristol Bay Native Association, and the local Village Councils. In 2004 this project was funded by OSM to gather fisheries specific information in the Kuskokwim Region of the Refuge. Elders in Quinhagak (4) and Goodnews Bay (2) have shared their life stories and detailed information about individual species, habitat and environmental changes observed over time. Translated interviews are entered into a text searchable and GIS database. This project is now a cooperative project with BBNA through OSM funding of the Partners positions program. Final analysis and a draft report were completed in late February 2006. OSM has reviewed and provided edits to the draft. A final draft report will be presented to the Village Councils before the report and databases will be released for public viewing.

***Education and Outreach*** Contact: Allen Miller

Togiak Refuge has an active education and outreach program including the Migratory Bird Calendar and Junior Duck Stamp contests; National Wildlife Refuge Week and National Fishing Week activities; career fairs; production of Bristol Bay Field Notes, aired three times weekly on KDLG; and numerous classroom presentations in 12 villages in the Southwest Region, Lower Kuskokwim, and Dillingham City school districts. Field trips with area students in 2006 included bird walks, pond life investigations, bear safety, and plants. The refuge website is also a valuable education tool and is available at <http://togiak.fws.gov>.

The refuge partners with others to conduct three environmental education camps described below. Unfortunately the Riparian Ecosystem and Outdoor Skills Camp had to be cancelled this year due to



several days of poor flying conditions. That was the first time one of the camps has been cancelled due to weather.

***Southwest Alaska Science Academy*** Contact: Allen Miller

The Refuge helped with the 6<sup>th</sup> year of a summer camp aimed at teaching middle and high school students about fisheries science and the importance of salmon to our ecosystem. Students were selected from the Bristol Bay region. During the camp students worked in the field alongside fisheries professionals. Cooperators with the refuge on this project included the Bristol Bay Economic Development Corporation, Bristol Bay Science and Research Institute, University of Alaska, University of Washington School of Fisheries, the Dillingham City and Southwest Region school districts, and the Alaska Department of Fish and Game.

***Cape Peirce Marine Mammal and Yup'ik Culture Camp*** Contact: Allen Miller

Students who participated at the 14<sup>th</sup> annual Cape Peirce camp learned about marine mammal and seabird biology by helping field biologists conduct monitoring and behavioral studies of walruses, harbor and spotted seals, and seabirds. Students and agency staff learned about traditional Yup'ik uses of animals and plants; and about Native survival skills. This program helps students gain an understanding of the biological diversity of the marine ecosystem, and to strengthen their sense of stewardship for local natural resources. Traditional councils and school districts from throughout western Bristol Bay are cooperators with this camp.

***Riparian Ecosystem and Outdoor Skills Camp*** Contact: Allen Miller

Students learn about river ecosystems and how to enjoy them safely and responsibly. Students observe and learn about many fish, wildlife and plant species during a float trip. The camp includes snorkel observations of fish in their natural habitat; helping Refuge fisheries staff collect Dolly Varden and observe them surgically implant radio transmitters, and using receivers to track the fish. Participants prepare meals with collected fish, and identify medicinal plants. This program helps students understand the biological diversity of riparian ecosystems and the importance of salmon as a nutrient source. Traditional councils and school districts from throughout western Bristol Bay are cooperators with this camp.

***River Ranger Program*** Contact: Allen Miller

Two River Rangers were stationed in the village of Togiak during summer 2006. Both rangers were Togiak Residents. A second crew rotated between the Kanektok and Goodnews rivers. Rangers on the latter two rivers used inflatable kayaks in addition to motorboats (which have been used since the program started). Use of kayaks allowed rangers to access the entire length of the Kanektok and Goodnews rivers. One of the second crew was a student-intern from Togiak, hired through a cooperative program with the Bristol Bay Economic Development Corporation. The Refuge River Ranger Program was conceived during the public use management planning process and was first implemented in 1991. The program serves many purposes. River Rangers are the main contact source for sport fishermen and local residents. Information distributed to the public includes Service policies, regulations, resource management practices, State sport fish regulations, bear safety, wilderness ethics, leave-no-trace camping, and information about private lands to prevent trespass. Rangers document public use occurring on the river along with the location and timing of activities, conflicts between users, and sport fish catch/harvest per unit effort. Rangers also assist Refuge and ADF&G staff at the Kanektok River and Middle Fork Goodnews River weirs, and assist Refuge staff with breeding bird surveys on all three rivers. In addition, they patrol campsites for litter, monitor compliance of sport fishing guides, and offer assistance as needed.

***Staff Changes:***

In March 2006, Pilot/Law Enforcement Officer Mike Hinkes accepted a similar position with the Yukon Flats National Wildlife Refuge based out of Fairbanks. Since arriving in 1991, Mike flew the majority of Togiak Refuge missions, supervised the wildlife and fisheries programs until 2000 when he became a law enforcement officer. Galen Howell, Park Ranger with Noatak National Preserve, based in Kotzebue, has been selected to fill Mike's position. Wildlife Biologist/Pilot Rob MacDonald accepted a similar position with Migratory Bird Management in Juneau. Rob worked for Togiak Refuge as a Fisheries Biological Technician (1992-98), Wildlife Biologist (1998-06) and became a Service Pilot in 2003.

**United States Department of the Interior**  
  
FISH AND WILDLIFE SERVICE  
**Alaska Peninsula/Becharof National Wildlife Refuges**  
P.O. Box 277  
King Salmon, Alaska 99613

August 2006

Agency Report to the:  
**Bristol Bay Federal Subsistence Regional Advisory Council**  
Public Meeting, Dillingham, Alaska  
October 2 – 3, 2006

**NORTHERN ALASKA PENINSULA CARIBOU HERD (NAPCH)**

**Calf Survival Study**

Refuge staff and Alaska Department of Fish & Game (ADF&G) staff continued to work together this spring on our study of calf survival. During late May and early June, a total of 54 one to three day old calves were captured, weighed, and radio-collared. These calves were checked daily for three weeks, and less frequently thereafter.

As of late August 2006, 11 caribou calves that were collared in late May-early June remained alive. In comparison with last year (2005) only three of 42 radio-collared calves were still alive by that date. In growing herds, calf mortality rates decline sharply when calves reach about two weeks of age and can run with the herd. The poor survival of calves in 2005 indicated that calves may not have been developing as rapidly in the NAPCH as in growing herds elsewhere in the state. Although it will be some time before the NAPCH will recover, it is good news to see a little better calf survival.

This year there were 34 investigations of cause of death in calves in their first two weeks of life (31 collared and 3 not collared). Their causes of death were wolves (45%), bears (32%), other (including eagle and starvation, 12%), and unknown (10%).

Concurrent with the calf mortality project ADF&G staff conducted a parturition survey to estimate pregnancy rates. The pregnancy rate for caribou cows aged 2 years or older was estimated to be 67%. This percent pregnancy was slightly better than the 57% recorded in 2005, but still not as high as in a growing herd. This low rate of calving may indicate poor nutrition among cows. The ADF&G veterinarian again analyzed a sample of calves and adults for disease and parasites. As of this report, there had not been sufficient analysis to conclude whether the infestations of this year were better or worse than those of 2005. As we reported in 2005, several of these diseases and parasites detected in 2005 are known to affect productivity and survival in ungulates.

**Post-Calving Count of the Northern Alaska Peninsula Caribou Herd (NAPCH)**

The Post-Calving Count has been used to track the trend and abundance of the herd since 1975. The official start date of this survey has been June 7. Survey work typically ran well into July as bad weather usually preventing survey in the mountains. The timing of this survey was established to take advantage of the often large post calving aggregations of caribou. These aggregations accounted for most of the caribou seen. In recent years those aggregations have gotten progressively smaller. The largest group in the Refuge count was less than 80 caribou. The total 2005 Post-Calving Count was 1,200 caribou.

In October 2005, the Refuge and ADF&G flew the annual Composition Count of the NAPCH which documents the composition of bulls, cows, and calves in the Herd. The number of caribou classified was 1914, about 700 caribou more than documented in the Post-calving Count (or a 60% increase). The Composition Count is done during October when caribou aggregate as they move toward winter range.

At this time, the Refuge and ADF&G agree that the Composition Count appears to be the better survey to document the abundance of the NAPCH. The savings of funds and staff time can be used on other caribou and moose related projects. We may in some years do the Post-Calving Count in occasional years to maintain the general trend of this survey until the herd rebounds.

#### **No Caribou Permits for the NAPCH**

Neither the USFWS nor the ADF&G issued any caribou permits for the NAPCH in 2006.

#### **Use of Anti-parasite Drug on Caribou Cows**

From the outset of the NAPCH decline, the presumed cause has been nutritional limitation resulting from the herd having overgrazing its range during its peak. Poor nutrition will eventually weaken the immune system allowing parasites and disease to compromise the animal. At this stage of the decline, we wanted to learn what part of the poor reproduction and calf recruitment was caused by parasites.

A total of 50 caribou cows were captured and radio-collared. Half were treated with the anti-parasite chemical Ivermecton. All 50 cows were treated the same way during processing which included an ultrasound measurement of rump fat. These cows were later checked again during the caribou parturition survey in spring.

The Ivermecton treated cows had a pregnancy rate of 75%, and the control group had a pregnancy rate of 63%. These results were interesting, but the differences between the Ivermecton treated and control group were not great enough to conclude a significant difference. We will continue to monitor these calves through their next calving cycle.

#### **MOOSE IN GMU 9(C) & 9(E).**

##### **Moose Trend Area Surveys**

Refuge staff flew a late season moose count at Black Lake trend area on March 9, 2006. They counted 166 moose (second highest count since 1998). We plan to fly moose trend surveys during the coming autumn and winter as in past years when snow cover permits.

##### **Moose Habitat Studies in the upper Alaska Peninsula**

University of Alaska Fairbanks (UAF) Professor Brad Griffith and graduate students completed a draft summary report that describes the findings from (1) the moose habitat study at Ugashik Lakes that Corey Adler started in 2002, and (2) the over winter weight changes in calves on the upper Alaska Peninsula by Shelly Szepanski. The report describes the likely ecology of forage structure and availability, protective cover, and avoidance of predators in what appears to be marginal winter range in the Ugashik Lakes area. The patchy, low density and scattered distribution of willow forage apparently results in moose foraging inefficiently.

The study of moose calf over-winter survival and growth on the Refuge was completed this spring. ADF&G and Refuge staff captured and radio-collared 30 moose calves in autumn 2005. The collars were distributed in an area bounded by the Katmai Park, the Kejulik River drainage, and Mother Goose Lake. The calves were monitored regularly. There were three collars that went off the air or were lost. In spring

2006, 20 calves were recaptured. Their average weight at capture was 451.3 Lbs. The average weight of the 20 calves re-captured in spring was 456.1. That difference was only a five pound over winter gain. In contrast, moose calves at Lake Clark gained an average of 19.6 pounds over winter.

### **Moose Abundance Estimate**

During periods of snow cover in February and March 2006, Refuge staff with an Egli Air Haul Bell 206 Helicopter surveyed 60 pre-determined transect lines in the Chignik Unit. Observers recorded 69 moose on transects including 5 calves. As of this writing, data analysis is not completed for this portion of the survey area. As reported in the February meeting, the estimate of moose for the Bristol Bay drainages from Naknek Lake to Aniakchak is 1663 moose (90% confidence level of 1376 – 1950).

### **2006 Fall Moose Season, Game Management Units 9(C) & 9(E)**

An early season moose hunt was again offered for subsistence users in Unit 9(C) on Federal public lands draining into the Naknek River from the south (Big Creek). During August 20 through 31, one bull could be taken by Federal registration permit only. Thereafter, the Federal subsistence season corresponded to the State season ending September 15.

An early Federal moose season was also offered for subsistence users in Unit 9(E) during August 20 through September 20 with a limit of one bull. The State resident season ran September 10 - 20 with a limit of one bull with spike-fork or 50-inch antlers or antlers with 3 or more brow tines on at least one side.

### **Becharof Lake, Island Arm area of Unit 9(E), Closure**

The closure of part of Island Arm to transporter (air taxi) permittees during subsistence moose season was continued in 2006. Refuge special use permits prohibited air taxis from dropping off clients in Island Arm north of Burls Creek and Bear Creek during September 1 - 20. Drop offs for five sport hunting camps (maximum of 4 hunters each) were allowed south of Burls Creek and Bear Creek. Air taxi transportation to Island Arm was allowed for qualified local subsistence users.

### **Winter Moose Hunting Seasons**

The winter cow moose hunt in Unit 9(C) was closed by vote of the Bristol Bay Subsistence Regional Advisory Council and action by the Federal Subsistence Board. For Federal public lands draining into the Naknek River from the south (Big Creek), there will be a closure for the hunting of moose except by eligible rural Alaska residents during the December 1 through 31 moose season. Local subsistence hunters may take one bull moose in the Big Creek area by Federal Registration Permit only. Federal registration permits are available from the USFWS Refuge office in King Salmon. The State resident season for Unit 9(C) lands draining into the Naknek River allows one bull during the month of December. In Unit 9(E), State and Federal seasons allow one bull to be taken during December 1 through January 20.

### **Wolves**

We are planning to initiate a pilot telemetry study of wolves in mid-October for the purpose of determining pack size and territories, and obtaining a population estimate.





## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
King Salmon Fish and Wildlife Field Office  
P. O. Box 277  
King Salmon, Alaska 99613  
(907) 246-3442

### Agency Report to the: Bristol Bay Regional Advisory Council

The following summarizes fisheries projects conducted by the King Salmon Fish and Wildlife Field Office (KSFO) on the Alaska Peninsula during 2005-2006. The projects were funded by the U.S. Fish and Wildlife Service Fisheries Program (Base) or the Office of Subsistence Management (OSM).

#### **Ugashik Lakes resident fish studies, Becharof National Wildlife Refuge (base funding)**

Since 2002, KSFO has been working in cooperation with the University of Alaska Fairbanks to gain a better understanding of the distribution, abundance, and life histories of resident fish in the Ugashik Lakes. The first two years of the project resulted in an increase of our understanding of lake trout spawning habits, seasonal movements, and population characteristics.

In 2003-2004, a resident fish distribution project was completed; this work has furthered our knowledge of resident fish distribution and provided valuable information on sampling the lakes for these species. The 2005-2006 project is using hydroacoustic technology to estimate the abundance of Dolly Varden, Arctic char, lake trout, and whitefish. Field work on this project was completed this summer and data analysis should be completed this winter. Graduate students from the University of Alaska and West Virginia University have conducted the field research for these projects.

#### **Estimation of coho salmon escapement in streams adjacent to Perryville, Alaska Peninsula National Wildlife Refuge. (OSM funding)**

Recent runs of coho salmon in the Kametolook, Three Star, and Long Beach rivers near Perryville have declined, and residents can no longer meet their subsistence needs in those rivers. Local residents are now taking coho salmon from streams outside the immediate vicinity of Perryville. With fishing effort spread out to other streams, we need to ensure escapement is maintained to meet the subsistence needs of the Native Village of Perryville. In order to prevent over harvest of these small stocks, escapement in those other streams needs to be monitored. In 2005, two aerial surveys were conducted to count adult coho salmon in streams near Perryville using low-level helicopter flights. Numbers of coho salmon counted in 2005 were lower than those observed during surveys in 2003 and 2004 (Table 1). Coho salmon run timing was also different in 2005. Most coho salmon were counted during the survey in late October 2005, whereas peak counts in previous years occurred in early October. Weather and local water quality conditions affected the survey interval and effectiveness in some streams. The 2006 flights are scheduled for September and October.

**Table 2.** Comparison of coho salmon counts for streams surveyed in 2003 and 2004, Clark River counts are for sockeye salmon.

Stream	2003		2004		2005	
	Survey 1	Survey 2	Survey 1	Survey 2	Survey 1	Survey 2
Ivanof River	2,600	314	1,300	330	776	1,170
Humpback Bay	1,120	14	1,040	46	82	207
Red Bluff Creek	5,000	330 <sup>a</sup>	7,600	836	352	2,482
Ivan River	2,150	217	1,840	290	507	170
Clark River	6,100	9,700	5,890	3,240	3,520	4,100

### Survey of tundra ponds in the Bristol Bay coastal plain (Base funding)

The potential for resource development on the costal plain of Bristol Bay could negatively impact the aquatic resources of the Bristol Bay costal plain. In order to minimize these potential impacts we need a better understanding of these systems. At present, we know little about the ecology and fish distributions of the numerous tundra ponds on the Bristol Bay coastal plain. To address this lack of information the King Salmon Fish and Wildlife Field Office initiated a pilot study to survey tundra ponds on the Bristol Bay coastal plain in 2006.

Each survey consisted of sampling the fish community, collecting water quality parameters (e.g. temperature and pH), and measuring the physical characteristics (e.g. size and depth) of each pond. In 2006 our sampling efforts were focused on ponds in the Naknek-King Salmon area for logistical reasons. In addition to documenting what species were present in these ponds our main objectives for 2006 were to learn what was feasible and identify priorities for future sampling efforts. Results of the 2006 are currently being analyzed.

The overall intent of this study is to document the current status of resident fish species in these bodies of water and develop a predictive model based. The goal of having the model is to predict species occurrence in areas of potential distributions in a rapid cost effective manner.

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BRISTOL BAY SUBSISTENCE REGIONAL ADVISORY COUNCIL**

**CHARTER**

1. **Official Designation:** Bristol Bay Subsistence Regional Advisory Council.
2. **Objectives and Scope of Activity:** The objective of the Council is to provide an administrative structure that enables residents of the region who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses of those resources on public lands in the region.
3. **Period of Time Necessary for the Council's Activities and Termination Date:** The Council is expected to exist into the foreseeable future. Its continuation is, however, subject to rechartering every biennial anniversary of the Alaska National Interest Lands Conservation Act of December 2, 1980. The Council will take no action unless the requirements of the Federal Advisory Committee Act have been complied with.
4. **Official to Whom the Council Reports:** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
5. **Support Services:** The U.S. Fish and Wildlife Service, Department of the Interior, will provide administrative support for the activities of the Council.
6. **Duties of the Council:** The Council possesses the authority to perform the following duties:
  - a. Initiate, review and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the region.
  - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the region.
  - c. Encourage local and regional participation in the decision making process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses.
  - d. Prepare an annual report to the Secretary containing the following:
    - (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region.
    - (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region.
    - (3) A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs.
    - (4) Recommendations concerning policies, standards, guidelines and regulations to implement the strategy.
  - e. Appoint three members to the Lake Clark National Park and three members to the Aniakchak National Monument Subsistence Resource Commissions, in accordance with Section 808 of ANILCA.

- f. Make recommendations on determinations of customary and traditional use of subsistence resources.
- g. Make recommendations on determinations of rural status.
- h. Provide recommendations on the establishment and membership of Federal local advisory committees.

The Council will perform its duties in conformity with the Regional Council Operations Manual.

- 7. **Estimated Operating Costs:** Annual operating costs of the Council are estimated at \$100,000, which includes one person-year of staff support.
- 8. **Meetings:** The Council will meet at least twice each year at the call of the Council, Council Chair, Federal Subsistence Board Chair, or Designated Federal Officer with the advance approval of the Federal Subsistence Board Chair and the Designated Federal Officer, who will also approve the agenda.
- 9. **Membership:** The Council's membership is as follows:

Ten members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the region represented by the Council. To ensure that a diversity of interests is represented, it is the goal that seven of the members (70 percent) represent subsistence interests within the region and three of the members (30 percent) represent commercial or sport interests within the region.

The Secretary of the Interior will appoint members based on the recommendations of the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

**Vacancy:** Whenever a vacancy occurs among Council members appointed under paragraph 9, the Secretary will appoint an individual in accordance with paragraph 9 to fill that vacancy for the remainder of the applicable term.

**Terms of Office:** Except as provided herein, each member of the Council will serve a 3-year term with the term ending on December 2 of the appropriate year unless a member of the Council resigns prior to the expiration of the 3-year term or he/she is removed for cause by the Secretary upon recommendation of the Federal Subsistence Board. Members will be notified of their appointment in writing. If resigning prior to the expiration of a term, members will provide a written resignation.

**Election of Officers:** Council members will elect a Chair, a Vice-Chair, and a Secretary for a 1-year term.

**Removal of Members:** If a Council member appointed under paragraph 9 has two consecutive unexcused absences of regularly scheduled meetings, the Chair of the Federal Subsistence Board may recommend that the Secretary of the Interior with the concurrence of the Secretary of Agriculture remove that individual. A member may also be removed due to misconduct.

**Compensation:** Members of the Council will receive no compensation as members. Members will, however, be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in government service are allowed such expenses under 5 U.S.C. 5703.

- 10. **Ethics Responsibilities of Members:** No Council or subcommittee member will participate in any specific party matter including a lease, license, permit, contract, claim, agreement, or related litigation with the Department in which the member has a direct financial interest.

11. **Designated Federal Officer or Employee:** Pursuant to Section 10(e) of the Federal Advisory Committee Act, the Designated Federal Officer will be the Federal Regional Coordinator or such other Federal employee as may be designated by the Assistant Regional Director - Subsistence, Region 7, U.S. Fish and Wildlife Service.
12. **Authority:** The Council is reestablished by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)).

/sgd/ Gale A. Norton  
Secretary of the Interior

October 25, 2005  
Date Signed

October 27, 2005  
Date Filed



# Winter 2007 Regional Advisory Council Meeting Window\*\*

*February 19–March 23, 2007 current as of 8/18/06*

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Feb 11</i>	<i>Feb 12</i>	<i>Feb 13</i>	<i>Feb 14</i>	<i>Feb 15</i>	<i>Feb 16</i>	<i>Feb 17</i>
<i>Feb 18</i>	<i>Feb 19 Meeting Window Opens PRESIDENT'S DAY HOLIDAY</i>	<i>Feb 20</i>	<i>Feb 21</i>	<i>Feb 22</i>	<i>Feb 23</i>	<i>Feb 24</i>
		SP—Nome				
		BB—Naknek				
<i>Feb 25</i>	<i>Feb 26</i>	<i>Feb 27</i>	<i>Feb 28</i>	<i>Mar 1</i>	<i>Mar 2</i>	<i>Mar 3</i>
				NS—Barrow		
		SE—Kake				
<i>Mar 4</i>	<i>Mar 5</i>	<i>Mar 6</i>	<i>Mar 7</i>	<i>Mar 8</i>	<i>Mar 9</i>	<i>Mar 10</i>
		WI—Aniak		NWA—Kotzebue		
<i>Mar 11</i>	<i>Mar 12</i>	<i>Mar 13</i>	<i>Mar 14</i>	<i>Mar 15</i>	<i>Mar 16</i>	<i>Mar 17</i>
	KA—King Cove*			YKD—Hooper Bay		
		SC—Anchorage				
<i>Mar 18</i>	<i>Mar 19</i>	<i>Mar 20</i>	<i>Mar 21</i>	<i>Mar 22</i>	<i>Mar 23 Meeting Window Closes</i>	<i>Mar 24</i>
		EI—Tok				

\*Cold Bay alternate location for K/A

\*\*Kenai Peninsula dates and location to be announced.

# Fall 2007 Regional Advisory Council Meeting Window

*August 27-October 19, 2006 current as of 9-8-06*

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug 26	Aug 27 <b>FISH CYCLE MEETING WINDOW OPENS</b>	Aug 28	Aug. 29	Aug. 30	Aug. 31	Sept. 1
		<b>NS - Barrow</b>				
Sept. 2	Sept. 3 <b>Holiday</b>	Sept. 4	Sept. 5	Sept. 6	Sept. 7	Sept. 8
Sept. 9	Sept. 10	Sept. 11	Sept. 12	Sept. 13	Sept. 14	Sept. 15
Sept. 16	Sept. 17	Sept. 18	Sept. 19	Sept. 20	Sept. 21	Sept. 22
Sept. 23	Sept. 24	Sept. 25	Sept. 26	Sept. 27	Sept. 28	Sept. 29
Sept. 30 <b>END OF FY 2006</b>	Oct. 1 <b>BEGINNING OF FY2007</b>	Oct. 2	Oct. 3	Oct. 4	Oct. 5	Oct. 6
Oct. 7	Oct. 8 <b>Holiday</b>	Oct. 9	Oct. 10	Oct. 11	Oct. 12	Oct. 13
Oct. 14	Oct. 15	Oct. 16	Oct. 17	Oct. 18	Oct. 19 <b>FISH CYCLE MEETING WINDOW CLOSES Wildlife Proposal Period Ends</b>	Oct. 20